

CHAPTER 289. PURE FOODS AND STANDARDS

FOOD AND DRUG COMMISSIONER

Act 263 of 1917

289.2-289.12 Repealed. 2000, Act 121, Imd. Eff. May 30, 2000.

DAIRY AND FOOD COMMISSIONER
Act 211 of 1893

AN ACT to provide for the appointment of a dairy and food commissioner, and to define his powers and duties and fix his compensation.

History: 1893, Act 211, Eff. Aug. 28, 1893.

The People of the State of Michigan enact:

289.35 State food analyst, chemists, inspectors; oath, tenure, laboratory, salaries, expenses, chemical supplies.

Sec. 5. The commissioner shall appoint a suitable and competent person as state analyst, who shall be a practical analytical chemist. The commissioner may appoint an assistant chemist and such inspectors as shall be necessary to carry out the provisions of this act. Before entering upon the duties of their offices, they shall take, subscribe and file in the office of the secretary of state the constitutional oath of office. Their term of office shall continue during the pleasure of the commissioner. The board of state auditors shall provide a room for the laboratory of the state analyst and his assistant, and the necessary furniture and fixtures therefor. In case of the absence or inability of the state analyst or his assistant to perform their duty, the commissioner may appoint some competent person to perform the same temporarily, which person shall take, subscribe and file the constitutional oath of office. The salaries of all employees hereby authorized, and the necessary expenses thereof while traveling in performing any of their duties, shall be paid in the same manner as the salaries and expenses of other state officers and employees. Such an amount as is found to be necessary in the proper performance of the work of the analyst may be expended for chemical supplies.

History: 1893, Act 211, Eff. Aug. 28, 1893;—Am. 1895, Act 245, Imd. Eff. June 1, 1895;—Am. 1897, Act 154, Imd. Eff. May 24, 1897;—CL 1897, 4977;—Am. 1901, Act 186, Imd. Eff. May 29, 1901;—Am. 1903, Act 230, Eff. Sept. 17, 1903;—Am. 1905, Act 12, Imd. Eff. Mar. 9, 1905;—CL 1915, 6364;—CL 1929, 5407;—Am. 1933, Act 163, Imd. Eff. June 22, 1933;—CL 1948, 289.35.

289.36 Dairy, food and drink products; inspection, analysis; commencement of proceedings; right of entry; warning notice; failure to obey, penalty.

Sec. 6. It shall be the duty of the dairy and food commissioner to carefully inquire into the dairy and food and drink products and the several articles which are foods or drinks, or the necessary constituents of foods or drinks, which are manufactured or sold or exposed or offered for sale in this state, and he may, in a lawful manner, procure samples of the same and direct the state analyst to make due and careful examination of the same, and report to the commissioner the result of the analysis of all and any of such food and drink products or dairy products as are adulterated, impure or unwholesome in contravention of the laws of this state; and it shall be the duty of the commissioner to make a complaint against the manufacturer or vendor thereof in the proper county and furnish all evidence thereof, to obtain a conviction of the offense charged. The dairy and food commissioner, or his deputy, or any person appointed by him for that purpose may make complaint and cause proceedings to be commenced against any person for the enforcement of any of the laws relative to adulterated, impure or unwholesome food or drink, and in such case he shall not be obliged to furnish security for costs and shall have power, in the performance of their duties, to enter into any creamery, factory, store, salesroom, drug store, or laboratory, or place where they have reason to believe food or drink are made, stored, sold or offered for sale and open any cask, tub, jar, bottle or package containing, or supposed to contain, any article of food or drink and examine or cause to be examined the contents thereof, and take therefrom samples for analysis. The person making such inspection shall take such sample of such article or product in the presence of at least 1 witness, and he shall, in the presence of said witness, mark or seal such sample and shall tender at the time of taking to the manufacturer or vendor of such product, or to the person having the custody of the same, the value thereof, and a statement in writing for the taking of such sample. Whenever it is determined by the dairy and food commissioner, his deputy or inspectors, that filthy or unsanitary conditions exist or are permitted to exist in the operation of any bakery, confectionary, or ice cream plant, or in any place where any food or drink products are manufactured, stored, deposited or sold for any purpose whatever, the proprietor or proprietors, owner or owners, of such bakery, confectionary or ice cream plant, or any person or persons owning or operating any plant where any food or drink products are manufactured, stored, deposited or sold, shall be first notified and warned by the commissioner, his deputy or inspectors to place such bakery, confectionary or ice cream plant, or any place where any food or drink products are manufactured, stored, deposited or sold in a sanitary condition within a reasonable length of time; and any person or persons owning and operating any bakery, confectionary or ice cream plant or any place where any food or drink products are manufactured, stored, deposited or sold, failing to obey such

notice and warning, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not less than 25 dollars nor more than 300 dollars and costs of prosecution, or imprisonment in the county jail not to exceed 90 days, or until such fine and costs are paid, or both fine and imprisonment in the discretion of the court.

History: 1893, Act 211, Eff. Aug. 28, 1893;—Am. 1895, Act 245, Imd. Eff. June 1, 1895;—Am. 1897, Act 154, Imd. Eff. May 24, 1897;—CL 1897, 4978;—Am. 1899, Act 268, Eff. Sept. 23, 1899;—Am. 1905, Act 12, Imd. Eff. Mar. 9, 1905;—CL 1915, 6365;—CL 1929, 5408;—CL 1948, 289.36.

289.37 Seizure of goods; analysis of sample; show cause hearing; summons; judgment; forfeiture of seized goods; appeal; disposition of proceeds; duty of prosecuting attorney.

Sec. 7. (1) The commissioner, his or her deputy, or any person by the commissioner duly appointed for that purpose, is authorized at all times to seize and take possession of any and all food and dairy products, substitutes therefor, or imitation thereof kept for sale, exposed for sale or held in possession or under the control of any person which in the opinion of the commissioner, or his or her deputy, or such person duly appointed, shall be contrary to the provisions of this act or other laws.

(2) The person so making such seizure as aforesaid, shall take from such goods as seized a sample for the purpose of analysis and shall cause the remainder thereof to be boxed and sealed and shall leave the same in the possession of the person from whom they were seized, subject to such disposition as shall hereafter be made thereof according to the provisions of this act.

(3) The person so making such seizure shall forward the sample so taken to the state analyst for analysis, who shall make an analysis of the same and shall certify the results of such analysis, which certificate shall be prima facie evidence of the fact or facts therein certified to in any court where the same may be offered in evidence.

(4) If upon such analysis, it shall appear that the food or dairy products are adulterated, substitutes, or imitations within the meaning of this act, the commissioner, or his or her deputy or any person duly authorized, may make complaint before the district or municipal court of the judicial district or municipality where such goods were seized, and the court shall issue a summons to the person from whom the goods were seized, directing him or her to appear not less than 6 nor more than 12 days from the date of the summons and show cause why the goods should not be condemned and disposed of. If the person from whom the goods were seized cannot be found, the summons shall be served upon the person then in possession of the goods. The summons shall be served at least 6 days before the time of appearance mentioned therein. If the person from whom the goods were seized cannot be found, and no one can be found in possession of the goods, and the defendants shall not appear on the return day, then the court shall proceed in the cause in the same manner provided by law where a writ of attachment is returned not personally served upon any of the defendants and none of the defendants shall appear upon the return day.

(5) Unless cause to the contrary thereof is shown, or if the goods shall be found upon trial to be in violation of any of the provisions of this act or other laws which now exist or which may be hereafter enacted, it shall be the duty of the court to render judgment that the seized property be forfeited to the state of Michigan, and that the goods be destroyed or sold by the commissioner for any purpose other than to be used for food. Either parties may appeal to the circuit court as appeals are taken from the district or municipal court rendering the judgment, but it shall not be necessary for the people to give any appeal bond.

(6) The proceeds arising from any such sale shall be paid into the state treasury and credited to the general fund: Provided, That if the owner or party claiming the property or goods so declared forfeited can produce and prove a written guarantee of purity, signed by the wholesaler, jobber, manufacturer, or other party from whom the articles were purchased, then the proceeds of the sale of such articles, over and above the costs of seizure, forfeiture, and sale, shall be paid over to such owner or claimant to reimburse him or her, to the extent of such surplus, for his or her actual loss resulting from such seizure and forfeiture, as shown by the invoice.

(7) It shall be the duty of each prosecuting attorney when called upon by said commissioners [commissioner] or by any person by him or her authorized as aforesaid to render any legal assistance in his or her power in proceedings under the provisions of this act, or any subsequent act relative to the adulteration of food, for the sale of impure or unwholesome food or food products.

History: 1893, Act 211, Eff. Aug. 28, 1893;—Am. 1895, Act 245, Imd. Eff. June 1, 1895;—CL 1897, 4979;—Am. 1899, Act 268, Eff. Sept. 23, 1899;—Am. 1903, Act 230, Eff. Sept. 17, 1903;—CL 1915, 6366;—CL 1929, 5409;—CL 1948, 289.37;—Am. 1991, Act 148, Imd. Eff. Nov. 25, 1991.

289.38 Giving of certificate by state analyst unlawful.

Sec. 8. It shall be unlawful for the state analyst, while he holds his office, to furnish to any individual, firm or corporation, any certificate as to the purity or excellence of any article manufactured or sold by them to be used as food or in the preparation of food.

History: 1893, Act 211, Eff. Aug. 28, 1893;—CL 1897, 4980;—CL 1915, 6367;—CL 1929, 5410;—CL 1948, 289.38.

289.39 Annual report to governor; contents, publication; monthly bulletin, contents, distribution, number limited.

Sec. 9. The commissioner shall make an annual report to the governor on or before the first day of July in each year, and which shall be printed and published on or before the first day of September next thereafter, which report shall cover the doings of his office for the preceding fiscal year, which shall show, among other things, the number of manufacturies and other places inspected and by whom, the number of specimens of food articles analyzed, and the state analyst's report upon each one; the number of complaints entered against persons for violation of the laws relative to the adulteration of food, the number of convictions had, and the amount of fines imposed therefor, together with such recommendations relative to the statutes in force as his experience may justify. The commissioner shall also prepare, print and distribute to all the papers of the state, and to such persons as may be interested or may apply therefor a monthly bulletin, in suitable paper covers, containing results of inspections, the results of analyses made by the state analyst, with popular explanation of the same, and such other information as may come to him in his official capacity relating to the adulteration of food and drink products and of dairy products, so far as he may deem the same of benefit and advantage to the public; also a brief summary of all the work done during the month by the commissioner and his assistants in the enforcement of the laws of the state, but not more than 10,000 copies of each such monthly bulletins shall be printed.

History: 1893, Act 211, Eff. Aug. 28, 1893;—Am. 1895, Act 245, Imd. Eff. June 1, 1895;—Am. 1897, Act 154, Imd. Eff. May 24, 1897;—CL 1897, 4981;—Am. 1899, Act 268, Eff. Sept. 23, 1899;—CL 1915, 6368;—CL 1929, 5411;—CL 1948, 289.39.

Compiler's note: In the second sentence of this section, the word "popular" evidently should read "proper".

289.40 Interference with food commissioners or inspectors; penalty.

Sec. 10. Any person who shall willfully hinder or obstruct the dairy and food commissioner, or his deputy, or other person or inspector by him duly authorized, in the exercise of the powers conferred upon him by this act, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine of not less than 10 dollars nor more than 100 dollars, or by imprisonment in the county jail for not less than 10 days nor more than 90 days, or both such fine and imprisonment in the discretion of the court.

History: Add. 1895, Act 245, Imd. Eff. June 1, 1895;—CL 1897, 4982;—CL 1915, 6369;—CL 1929, 5412;—CL 1948, 289.40.

289.43 Investigation of creameries, dairy products factories; giving of instruction.

Sec. 13. It shall also be the duty of the dairy and food commissioner to foster and encourage the dairy industry of the state, and, for that purpose, he shall investigate the general conditions of the creameries, cheese factories, condensed milk factories, skimming stations, milk stations and farm dairies in this state, with full power to enter upon any premises for such investigation, with the object in view of improving the quality and creating and maintaining uniformity of the dairy products of the state; and should it become necessary, in the judgment of the dairy and food commissioner, he may cause instruction to be given in any creamery, cheese factory, condensed milk factory, skimming station, milk station, or farm dairy, or in any locality in this state, and in order to secure the proper feeding and care of cows, or the practical operation of any plant producing dairy products and in order to secure such a uniform and standard quality of dairy products in the state, he shall furnish a sufficient number of competent inspectors for that purpose, the appointment of whom is provided for in section 4 of this act, and they shall be duly qualified to act as such inspectors.

History: Add. 1905, Act 12, Imd. Eff. Mar. 9, 1905;—CL 1915, 6372;—CL 1929, 5415;—CL 1948, 289.43.

289.44 Warning notice; distributors of impure milk or cream; failure to obey, penalty.

Sec. 14. Whenever it is determined by the dairy and food commissioner, his deputy or inspectors, that any person is using, selling or furnishing to any skimming station, creamery, cheese factory, condensed milk factory, milk depot, farm dairy, milk dealer, the retail trade or to any consumer of milk, any impure or unwholesome milk or cream, which impurity or unwholesomeness is caused by the unsanitary or filthy condition of the premises where cows are kept, or by the unsanitary or filthy care or handling of the cows, or from unclean utensils being used, or from unwholesome food, or from any other cause, the person so using, selling or furnishing to any skimming station, creamery, cheese factory, condensed milk factory, milk depot, farm dairy, milk dealer, the retail trade, or to any consumer of milk, any such milk or cream, shall first be notified and warned by the commissioner, his deputy or inspectors not to use, sell, or furnish such milk or

cream to such skimming station, creamery, cheese factory, condensed milk factory, milk depot, farm dairy, milk dealer, the retail trade, or to any consumer of milk, and any person failing to obey such notice and warning, and continuing to use, sell or furnish to any skimming station, creamery, cheese factory, condensed milk factory, farm dairy, milk dealer or to the retail trade such impure or unwholesome milk or cream, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not less than 10 dollars, nor more than 50 dollars, and costs of prosecution, or imprisonment in the county jail, not to exceed 90 days, or until such fine and costs are paid, or both fine and imprisonment in the discretion of the court.

History: Add. 1905, Act 12, Imd. Eff. Mar. 9, 1905;—CL 1915, 6373;—CL 1929, 5416;—CL 1948, 289.44.

289.45 Warning notice; operators of unsanitary creameries, dairy products factories; failure to obey, penalty.

Sec. 15. Whenever it is determined by the dairy and food commissioner, his deputy or inspectors, that unsanitary conditions exist or are permitted to exist in the operation of any skimming station, creamery, cheese factory, condensed milk factory, milk depot, or farm dairy, the proprietor or proprietors, or manager of said skimming station, creamery, cheese factory, condensed milk factory or farm dairy, shall be first notified and warned by the commissioner, his deputy or inspectors to place such skimming station, creamery, cheese factory, condensed milk factory, milk depot or farm dairy in a sanitary condition, within a reasonable length of time; and any person or persons owning or operating such skimming station, creamery, cheese factory, condensed milk factory, milk depot, or farm dairy, failing to obey such notice and warning, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not less than 25, nor more than 300 dollars, and costs of prosecution, or imprisonment in the county jail, not to exceed 90 days or until such fine and costs are paid, or both fine and imprisonment in the discretion of the court.

History: Add. 1905, Act 12, Imd. Eff. Mar. 9, 1905;—CL 1915, 6374;—CL 1929, 5417;—CL 1948, 289.45.

289.48 Repealed. 1975, Act 120, Imd. Eff. June 26, 1975.

Compiler's note: The repealed section pertained to concentrated commercial feeding stuff.

289.49 Annual report to governor; contents.

Sec. 19. The published annual report of the dairy and food commissioner which shall be made to the governor, shall include a complete accounting of all moneys received by the department from every source, and the amount expended by the department.

History: Add. 1905, Act 12, Imd. Eff. Mar. 9, 1905;—CL 1915, 6378;—CL 1929, 5419;—CL 1948, 289.49.

DAIRY AND FOOD COMMISSIONER **Act 167 of 1899**

289.61 Repealed. 2001, Act 267, Eff. Feb. 8, 2002.

COLLECTION OF FEES Act 37 of 1913

AN ACT to provide for the collection of registration, license and other fees due the state dairy and food department, by means of a civil suit in the state courts.

History: 1913, Act 37, Eff. Aug. 14, 1913.

The People of the State of Michigan enact:

289.71 Collection of fees; suit to recover fees due.

Sec. 1. Whenever any corporation, firm or person engaged as a dealer, manufacturer, storer or transporter of any food or beverage product for man or animal, doing business within the state shall for 30 days after the same becomes due refuse or neglect to pay any registration or license fee which the laws of Michigan require said corporation, firm or person to pay to the state dairy and food department, the state dairy and food commissioner may bring a civil suit in the name of the people of the state of Michigan for the use and benefit of the state dairy and food department for the recovery of said registration or license fee.

History: 1913, Act 37, Eff. Aug. 14, 1913;—CL 1915, 6390;—CL 1929, 5422;—CL 1948, 289.71.

Compiler's note: The office of dairy and food commissioner, referred to in this section, was abolished and the powers and duties thereof transferred to the food and drug commissioner by § 289.2. The office of food and drug commissioner was subsequently abolished and the powers and duties thereof transferred to the state department of agriculture by § 285.2.

289.72 Suit to recover fees due; venue, procedure, judgment; disposition of moneys recovered; prerequisite notice to defendant.

Sec. 2. Said suit may be commenced in the circuit court for the county of Ingham or in the circuit court of the county where the principal business office of such defendant corporation, firm or person shall be located and shall be prosecuted in like manner as in civil suits between individuals, and judgment and execution may follow in like manner and costs may be recovered to be taxed as in other civil cases, and all moneys recovered shall be paid into the state treasury for the use and benefit of the state dairy and food department: Provided, That no suit as authorized by this act, shall be commenced until 30 days after the defendant in such suit has been duly notified of his or her delinquency either personally or by registered letter.

History: 1913, Act 37, Eff. Aug. 14, 1913;—CL 1915, 6391;—CL 1929, 5423;—CL 1948, 289.72.

289.73 Expenses.

Sec. 3. All expenses incurred by the state dairy and food commissioner under this act shall be defrayed by the state dairy and food department out of its annual appropriation.

History: 1913, Act 37, Eff. Aug. 14, 1913;—CL 1915, 6392;—CL 1929, 5424;—CL 1948, 289.73.

FOOD; ADULTERATION, FRAUD, AND DECEPTION Act 193 of 1895

289.81-289.100 Repealed. 1964, Act 256, Eff. Aug. 28, 1964;—1978, Act 328, Eff. Mar. 30, 1979.

STANDARDS OF PURITY FOR FOOD AND DRUGS
Act 64 of 1913

AN ACT to define and fix standards of purity for foods, beverages, condiments, confectionary and drugs in this state in prosecutions arising under the food, beverage and drug laws of the state of Michigan.

History: 1913, Act 64, Eff. Aug. 14, 1913.

The People of the State of Michigan enact:

289.111 Food products; legal standards of purity.

Sec. 1. In all prosecutions arising under the food and drug laws of this state for the manufacture or sale of an adulterated, misbranded, or otherwise unlawful article of food, drink, condiment, or drug, the standards of purity for food products, established by the United States secretaries of agriculture and health and human services, in effect on the date this 1986 amendatory act takes effect, shall be accepted as the legal standards, except in cases where other standards are specifically prescribed by the laws of this state.

History: 1913, Act 64, Eff. Aug. 14, 1913;—CL 1915, 6535;—CL 1929, 5443;—CL 1948, 289.111;—Am. 1986, Act 145, Imd. Eff. July 2, 1986.

BUSINESS OF CANNING AND PRESERVING
Act 411 of 1919

289.121-289.133 Repealed. 1978, Act 328, Eff. Mar. 30, 1979.

USE OF PRESERVATIVES
Act 7 of 1905

289.141,289.142 Repealed. 1968, Act 39, Eff. Jan. 1, 1969.

USE OF SACCHARIN, SODIUM CYCLAMATE, OR CALCIUM CYCLAMATE
Act 165 of 1943

289.151 Repealed. 1978, Act 328, Eff. Mar. 30, 1979.

WAREHOUSES, COLD STORAGE PLANTS, AND SLAUGHTERHOUSES
Act 344 of 1917

289.201-289.203 Repealed. 1978, Act 368, Eff. Sept. 30, 1978.

FROZEN FOOD LOCKER PLANTS
Act 355 of 1941

289.211-289.219 Repealed. 1978, Act 328, Eff. Mar. 30, 1979.

SAUSAGE
Act 259 of 1933

289.231-289.242 Repealed. 1952, Act 228, Eff. Sept. 18, 1952.

IMMATURE OR UNWHOLESOME CALVES
Act 340 of 1913

AN ACT to prevent and punish the sale of immature and unwholesome calves, pigs, kids and lambs.

History: 1913, Act 340, Eff. Aug. 14, 1913;—Am. 1959, Act 156, Eff. Mar. 19, 1960.

The People of the State of Michigan enact:

289.251 Immature veal, transportation or sale unlawful; deacons; unwholesome meat from young animals; possession.

Sec. 1. No person shall transport in interstate or intrastate commerce, or sell for transportation in interstate or intrastate commerce, any calf unless such calf is at least 1 week old. This provision shall not apply to transportation or sale of live calves known as deacons from 1 farmer to another. No person shall sell, offer or expose for sale, for human consumption, the carcass or meat of calves, pigs, kids or lambs which are unwholesome. The carcasses or meat shall be declared unwholesome if (1) the carcass or meat has the appearance of being water soaked, is loose, flabby, tears easily and can be perforated with the fingers; or (2) if its color is grayish red; or (3) if good muscular development as a whole is lacking, especially noticeable on the upper shank of the leg, where small amounts of serous infiltrates or small edematous patches are sometimes present between the muscles; or (4) if the tissue which later develops as the fat capsule of the kidneys is edematous, dirty yellow or grayish red, tough and intermixed with islands of fat. Such carcasses or meats as herein described and declared to be unwholesome shall be condemned. Possession of such carcass or meat in any place where meat for human consumption is stored, sold or offered for sale shall be evidence of possession of such carcass or meat for sale. This section shall not be deemed to prohibit the shipment in interstate commerce of hog-dressed young veal calves, commonly known as “deacons”.

History: 1913, Act 340, Eff. Aug. 14, 1913;—CL 1915, 6514;—CL 1929, 5469;—Am. 1945, Act 162, Eff. Sept. 6, 1945;—CL 1948, 289.251;—Am. 1952, Act 208, Imd. Eff. Apr. 29, 1952;—Am. 1959, Act 156, Eff. Mar. 19, 1960.

289.252 Violation of act; penalty.

Sec. 2. Whoever shall do any of the acts or things prohibited by this act, or in any way violate any of its provisions, shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than 25 dollars nor more than 100 dollars, and the costs of the prosecution, or by imprisonment in the county jail not more than 90 days, or by both such fine and imprisonment in the discretion of the court.

History: 1913, Act 340, Eff. Aug. 14, 1913;—CL 1915, 6515;—CL 1929, 5470;—CL 1948, 289.252.

289.253 Declaration of necessity.

Sec. 3. This act is immediately necessary for the public health.

History: 1913, Act 340, Eff. Aug. 14, 1913;—CL 1915, 6516;—CL 1929, 5471;—CL 1948, 289.253.

FALSE ADVERTISING OF MEAT AND MEAT PRODUCTS
Act 166 of 1957

289.261-289.268 Repealed. 2000, Act 92, Eff. Nov. 8, 2000.

STATEMENTS AS TO MEATS
Act 315 of 1972

289.271-289.276 Repealed. 2002, Act 208, Imd. Eff. Apr. 29, 2002.

EGGS
Act 115 of 1939

289.301-289.313 Repealed. 1963, Act 244, Eff. Sept. 6, 1963.

EGGS
Act 244 of 1963

AN ACT to promote the egg industry in this state; to provide for federal quality and size standards for eggs; to regulate the processing, marking, branding, advertising and sale of eggs, and the licensing of egg breaking establishments; and to provide penalties for the violation of this act.

History: 1963, Act 244, Eff. Sept. 6, 1963;—Am. 1964, Act 131, Eff. Aug. 28, 1964.

The People of the State of Michigan enact:

289.321 Eggs; definitions.

Sec. 1. As used in this act:

- (a) “Director” means the director of agriculture.
- (b) “Person” means an individual, partnership, association, corporation and any other business unit, or a receiver, trustee or assignee thereof.
- (c) “Producer” means a person directly responsible for the production of eggs from domesticated chickens.
- (d) “First receiver” means a person who receives eggs from a producer at any place of business where such eggs are to be candled, graded, sorted and packed or packaged.
- (e) “Wholesaler” means a person who sells eggs to anyone for resale to a consumer.
- (f) “Retailer” means a person offering or selling eggs direct to a consumer.
- (g) “Consumer” means a person purchasing eggs for his own family use or consumption.
- (h) “Candling” means the examination, in a partially darkened room or place, of the interior of an egg by twirling the same before a bright light passing through an aperture in an opaque shield or by another approved method.
- (i) “Atmospheric temperature” means temperature of the atmosphere within the enclosure in which the temperature is being measured.

History: 1963, Act 244, Eff. Sept. 6, 1963;—Am. 1965, Act 132, Eff. Mar. 31, 1966.

289.321a United States department of agriculture, state director of agriculture; standards.

Sec. 1a. Whenever the terms “standard” or “standards of quality and grade” are used in this act they shall mean those standards not less than those established by the United States department of agriculture and promulgated by the state director of agriculture.

History: 1963, Act 244, Eff. Sept. 6, 1963.

289.322 Eggs unfit for human consumption; denaturing, destruction.

Sec. 2. No person shall sell, offer or expose for sale to the consumer or to the retail trade, or have in his possession with intent to sell to the consumer or to the retail trade, any egg which is unfit for human food. Such an egg shall be broken out of the shell and denatured or destroyed by methods approved by the director so that it cannot be used for human food.

History: 1963, Act 244, Eff. Sept. 6, 1963.

289.323 Eggs unfit for human consumption; description of unfit eggs.

Sec. 3. Eggs described by the United States department of agriculture as black rots, white rots, mixed rots (addled eggs), sour eggs, eggs with green whites, stuck yolks, blood rings, or embryos beyond blood ring stage, moldy eggs, musty eggs, bloody whites, crusted yolks, eggs with abnormal odors, and any eggs which contain wholly or in part a tainted, disease, filthy, decomposed or putrid substance are deemed to be unfit for human food. Such eggs shall be denatured or disposed of by a method approved by the director.

History: 1963, Act 244, Eff. Sept. 6, 1963.

289.324 False or misleading advertising; sale prohibited.

Sec. 4. No person shall sell, offer or expose for sale, or advertise for sale, eggs for human consumption, if the package containing them, or any stamp or label on the package or on the eggs, or any advertising concerning or accompanying them, shall bear any statement, symbol or device regarding the eggs which may be false or misleading in any particular.

History: 1963, Act 244, Eff. Sept. 6, 1963.

289.325 Visual examination; certification of results; evidence.

Sec. 5. The final determination of all grade and quality factors of an official sample of shell eggs, shall be made by visual examination of the egg to determine cleanliness, soundness of shell and exterior quality, and

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by candling or breaking to determine interior quality. The examination shall be made by a competent representative authorized by the director. The representative shall certify the results of the examination and his certificate shall be prima facie evidence of the facts therein certified to in any court where the certificate is offered in evidence.

History: 1963, Act 244, Eff. Sept. 6, 1963.

289.326 Grades; standards, nomenclature.

Sec. 6. (a) All standards of quality and grades for shell eggs in this state shall conform to the latest standards of quality and grades for eggs prescribed and promulgated by the director, or the United States department of agriculture except tolerances designated in section 10.

(b) For the purpose of interpreting grade specifications and terms descriptive of exterior and interior quality the latest specifications for official United States standards or standards prescribed and promulgated by the director for individual eggs shall be used.

(c) The voluntary use of the United States standards and grades for eggs and their nomenclature in accordance with the rules and regulations prescribed by the United States department of agriculture, cooperating with the state department of agriculture, is adopted.

History: 1963, Act 244, Eff. Sept. 6, 1963.

289.327 Grades as to size; designation in advertising, container label.

Sec. 7. All eggs sold, offered or exposed for sale, or advertised for sale by a retailer or wholesaler shall be marked to conform to one of the following size requirements. When the term "jumbo" is applied to any dozen or lot of eggs the eggs shall weigh at the rate of not less than 30 ounces per dozen, with no eggs below the rate of 29 ounces per dozen. When the term "extra large" is applied to any dozen or lot of eggs the eggs shall weigh at the rate of not less than 27 ounces per dozen with no eggs below the rate of 26 ounces per dozen. When the term "large" is applied to any dozen or lot of eggs the eggs shall weigh at the rate of not less than 24 ounces per dozen, with no eggs below the rate of 23 ounces per dozen. When the term "medium" is applied to any dozen or lot of eggs the eggs shall weigh at the rate of not less than 21 ounces per dozen, with no eggs below the rate of 20 ounces per dozen. When the term "small" is applied to any dozen or lot of eggs the eggs shall weigh at the rate of not less than 18 ounces per dozen with no eggs below the rate of 17 ounces per dozen. When the term "peewee" is applied to any dozen or lot of eggs the eggs shall weigh at the rate of not less than 15 ounces per dozen. All advertising shall include the correct unabbreviated size designation in describing eggs and the correct unabbreviated size designation shall also appear on the exterior of any container, open or closed, in which eggs are offered for sale to the retailer or the consumer.

History: 1963, Act 244, Eff. Sept. 6, 1963.

289.328 Representation as fresh.

Sec. 8. No person by himself or his agents or servants shall sell, offer or expose for sale, advertise, or in any manner represent for sale as strictly fresh, hennery, new laid, best, grade A, number 1, fancy, special, extra, selected, direct from the farm, or under any word, figures, symbols, or description of similar import, any eggs which are not fresh. No egg shall be deemed fresh which does not meet the standards of quality specified for the U.S. AA or A quality, or the equivalent thereof, as designated in the latest United States department of agriculture standards for individual eggs or standards prescribed and promulgated by the director.

History: 1963, Act 244, Eff. Sept. 6, 1963.

289.329 Quality markings.

Sec. 9. All eggs sold, offered or exposed for sale, or advertised for sale by a retailer or wholesaler shall be labeled or marked to conform to one of the following grade requirements:

(a) Eggs which fully meet the specifications of U.S. AA quality or fresh fancy quality, or the equivalent thereof, as described in the latest United States department of agriculture standards for individual eggs, shall be labeled and advertised as grade AA or fresh fancy eggs, Michigan seal of quality eggs, grade A or grade B eggs.

(b) Eggs which fully meet the specifications of the U.S. A quality, or the equivalent thereof, as described in the latest United States department of agriculture standards for individual eggs, shall be labeled and advertised as grade A or grade B eggs.

(c) Eggs which fully meet the specifications of a U.S. B quality, or the equivalent thereof, as described in the latest United States department of agriculture standards for individual eggs, shall be labeled and advertised as grade B eggs.

History: 1963, Act 244, Eff. Sept. 6, 1963.

289.329a Cull eggs; egg breaking plant, license, fee.

Sec. 9a. Eggs described in the United States department of agriculture standards for individual shell eggs, as cracks, checks, dirties or grade c eggs, may not be offered for sale or sold, in the shell. Such eggs may be broken out of the shell at the grading plant or grading station or may be offered for sale or sold to an egg breaking plant. All egg breaking plants shall be licensed by the director before engaging in the business of breaking out eggs. Application for license shall be made to the director upon forms furnished by him which contain such information as he may require and shall be accompanied by a fee of \$10.00. After satisfactory investigation, the director shall issue to the applicant a license to operate an egg breaking plant. All licenses shall expire on December 31 following the date of issuance and shall be renewed annually on or before January 1 upon payment of a fee of \$10.00. All egg breaking plants shall comply with the sanitary and food laws of the state. The director may revoke, refuse or suspend any license when he determines that the provisions of this act have been violated.

History: Add. 1964, Act 131, Eff. Aug. 28, 1964.

289.330 Quality tolerances.

Sec. 10. Not more than 10% of the eggs of any given lot may be below the designated quality, and not less than 80% of the eggs below the designated quality shall meet the requirements for the next lower quality. Not more than 3% of the eggs of any given lot may be below the minimum weight requirements for that designated weight class, and the eggs below the designated size shall meet the requirements for the next lower size. The dozen or the average weight of all eggs in a given lot shall not be less than the minimum requirements for that size designation.

History: 1963, Act 244, Eff. Sept. 6, 1963.

289.331 Incubated eggs; definition, sale, denaturing or destruction, research or pharmaceutical use.

Sec. 11. "Incubated eggs" include all eggs which have been subjected to incubation practices, whether natural or artificial, for more than 48 hours. It is unlawful to transport, sell, offer for sale or advertise for sale incubated eggs in the shell. Incubated eggs shall be denatured or disposed of on the premises where such eggs were incubated, by a method approved by the director. Incubated eggs produced for research or pharmaceutical purposes may be removed from the premises upon the written approval of the director.

History: 1963, Act 244, Eff. Sept. 6, 1963.

289.332 Temperature control.

Sec. 12. Any person engaged in the business of buying for resale, selling, dealing in, trading in, transporting, candling, grading, sorting, packing or packaging eggs for human consumption shall maintain the temperature of the eggs not to exceed 60 degrees Fahrenheit except when such eggs are being candled, graded, sorted, packed or packaged, or transported to a first receiver. When eggs are being candled, graded, sorted, packed or packaged the atmospheric temperature in the working area, as measured 5 feet above the floor, shall not exceed 75 degrees Fahrenheit.

History: 1963, Act 244, Eff. Sept. 6, 1963.

289.333 Sale by producer to consumer or first receiver.

Sec. 13. All producers shall comply with this act except those selling eggs of their own production direct to consumers or when delivering or selling to a first receiver.

History: 1963, Act 244, Eff. Sept. 6, 1963.

289.334 State director of agriculture; rules and regulations.

Sec. 14. The director may make reasonable rules and regulations in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, in the enforcement of the provisions of this act.

History: 1963, Act 244, Eff. Sept. 6, 1963.

289.335 Violations of act; penalty.

Sec. 15. Any person who violates any provision of this act shall be guilty of a misdemeanor.

History: 1963, Act 244, Eff. Sept. 6, 1963.

289.336 Repeal.

Sec. 16. Act No. 115 of the Public Acts of 1939, as amended, being sections 289.301 to 289.313 of the Compiled Laws of 1948, is repealed.

History: 1963, Act 244, Eff. Sept. 6, 1963.

SOFT DRINKS

Act 126 of 1927

289.401-289.418 Repealed. 1963, Act 146, Eff. Sept. 6, 1963;—1969, Act 106, Eff. Mar. 20, 1970.

BUCKWHEAT FLOUR

Act 208 of 1903

289.501-289.505 Repealed. 1985, Act 74, Imd. Eff. July 1, 1985.

PEPPER, CLOVES, AND NUTMEG
Act 418 of 1919

AN ACT to provide for the manufacture and sale of black pepper, white pepper, red pepper, cloves and nutmegs, and to provide a penalty for the violation of this act.

History: 1919, Act 418, Eff. Aug. 14, 1919.

The People of the State of Michigan enact:

289.521 Black pepper; standards.

Sec. 1. No person, firm or corporation shall manufacture for sale, or expose for sale, sell, exchange or deliver or have in his possession with intent to sell, exchange or deliver, any ground or whole black pepper which contains not less than 6-75/100 per cent of non-volatile ether extract, not less than 30 per cent of starch, not more than 7 per cent of total ash, nor more than 1 and 5/10 per cent of ash insoluble in hydrochloric acid.

History: 1919, Act 418, Eff. Aug. 14, 1919;—CL 1929, 5487;—CL 1948, 289.521.

Former law: See Act 180 of 1901, being CL 1915, §§ 6519 and 6520, and Act 29 of 1869, being CL 1897, §§ 4911 to 4953.

289.522 White pepper; standards.

Sec. 2. No person, firm or corporation shall manufacture for sale, or expose for sale, sell, exchange or deliver or have in his possession with intent to sell, exchange or deliver, any ground or whole white pepper which contains not less than 7 per cent of non-volatile ether extract, not less than 52 per cent of starch, not more than 5 per cent of crude fiber, not more than 3-5/10 per cent of total ash, nor more than 3/10 per cent of ash insoluble in hydrochloric acid.

History: 1919, Act 418, Eff. Aug. 14, 1919;—CL 1929, 5488;—CL 1948, 289.522.

289.523 Red pepper; standards.

Sec. 3. No person, firm or corporation shall manufacture for sale, or expose for sale, sell, exchange or deliver or have in his possession with intent to sell, exchange or deliver, any ground or whole red pepper which contains not more than 8 per cent of total ash, nor more than 1 per cent of ash insoluble in hydrochloric acid.

History: 1919, Act 418, Eff. Aug. 14, 1919;—CL 1929, 5489;—CL 1948, 289.523.

289.524 Cloves; standards.

Sec. 4. No person, firm or corporation shall manufacture for sale, or expose for sale, sell, exchange or deliver or have in his possession with intent to sell, exchange or deliver any ground or whole cloves which contain not more than 5 per cent of clove stems, not less than 15 per cent of volatile ether extract, not less than 12 per cent of quercitannic acid (calculated from the total oxygen absorbed by the aqueous extract), not more than 10 per cent of crude fiber, not more than 7 per cent of total ash, nor more than 5/10 per cent of ash insoluble in hydrochloric acid.

History: 1919, Act 418, Eff. Aug. 14, 1919;—CL 1929, 5490;—CL 1948, 289.524.

289.525 Nutmegs; standards.

Sec. 5. No person, firm or corporation shall manufacture for sale, or expose for sale, sell, exchange or deliver or have in his possession with intent to sell, exchange or deliver, any ground or whole nutmegs which contain not less than 25 per cent of non-volatile ether extract, not more than 10 per cent of crude fiber, not more than 5 per cent of total ash, nor more than 5/10 per cent of ash insoluble in hydrochloric acid.

History: 1919, Act 418, Eff. Aug. 14, 1919;—CL 1929, 5491;—CL 1948, 289.525.

289.526 Violation of act; penalty.

Sec. 6. Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by fine of not more than 500 dollars and costs of prosecution or by imprisonment in the county jail not more than 100 days, or by both such fine and imprisonment in the discretion of the court.

History: 1919, Act 418, Eff. Aug. 14, 1919;—CL 1929, 5492;—CL 1948, 289.526.

MAPLE SYRUP
Act 280 of 1996

AN ACT to set standards for certain syrup sold in the state of Michigan; to provide for certain powers for certain state agencies; to provide for issuance of certain seals or logos; and to provide for remedies and penalties.

History: 1996, Act 280, Eff. Mar. 31, 1997.

The People of the State of Michigan enact:

289.531 Maple syrup in retail packages; sale, display, or intent to sell; conformance with federal standards.

Sec. 1. A person shall not sell, offer or display for sale, or possess with intent to sell maple syrup in retail packages unless that syrup conforms to the United States standards for table maple sirup prescribed in 7 C.F.R. 52.5961 to 52.5967.

History: 1996, Act 280, Eff. Mar. 31, 1997.

Compiler's note: At the end of subsection (1), the word "sirup" evidently should read "syrup."

289.532 Enforcement of act; issuance and use of seal of quality or other logo.

Sec. 2. (1) The department of agriculture shall enforce this act in the same manner as the Michigan food law of 1968, Act No. 39 of the Public Acts of 1968, being sections 289.701 to 289.727 of the Michigan Compiled Laws.

(2) The department of agriculture may provide for the issuance of a seal of quality or other described logo for maple syrup meeting or exceeding the standards imposed in this act.

(3) If the department of agriculture provides for the issuance of a seal of quality or logo for maple syrup, use of the seal of quality or logo in a manner inconsistent with the use prescribed by the department of agriculture is considered a violation of this act.

History: 1996, Act 280, Eff. Mar. 31, 1997.

289.533 Violation as misdemeanor; penalty.

Sec. 3. A person who violates this act is guilty of a misdemeanor punishable by imprisonment for not more than 90 days, a fine of not more than \$100.00, or both.

History: 1996, Act 280, Eff. Mar. 31, 1997.

289.534 Injunctive relief.

Sec. 4. In addition to the penalties otherwise provided in this act, the department of agriculture may apply to circuit court for injunctive relief restraining any person from violating this act, irrespective of whether an adequate remedy at law exists.

History: 1996, Act 280, Eff. Mar. 31, 1997.

CORN SYRUP
Act 123 of 1903

289.541, 289.542 Repealed. 1968, Act 39, Eff. Jan. 1, 1969.

VINEGAR
Act 384 of 1913

289.551-289.559 Repealed. 2000, Act 92, Eff. Nov. 8, 2000.

MICHIGAN COMMUNUTED MEAT LAW
Act 228 of 1952

289.581-289.592 Repealed. 1992, Act 231, Imd. Eff. Oct. 19, 1992;—2000, Act 92, Eff. Nov. 8, 2000.

GRAIN TREATED WITH POISONOUS OR INJURIOUS SUBSTANCE
Act 69 of 1956

289.611-289.614 Repealed. 1988, Act 455, Imd. Eff. Dec. 27, 1988.

SEAL OF QUALITY ACT

Act 70 of 1961

AN ACT to promote the development and to encourage consumption of Michigan agricultural products by use of a seal denoting quality; to prescribe the powers and duties of the state department of agriculture; to establish procedures for standards; to provide for fees; to authorize the appointment of commodity committees; and to prescribe penalties for violations.

History: 1961, Act 70, Eff. Sept. 8, 1961.

The People of the State of Michigan enact:

289.631 Seal of quality act; short title.

Sec. 1. This act shall be known and may be cited as the "seal of quality act".

History: 1961, Act 70, Eff. Sept. 8, 1961.

289.632 Seal of quality act; definitions.

Sec. 2. As used in this act:

(a) "Commission" means the commission of agriculture.

(b) "Department" means the state department of agriculture.

(c) "Director" means the state director of agriculture.

(d) "Person" means individuals, partnerships, trusts, associations, corporations, and any and all other business units, devices and arrangements, or receiver, trustee or assignee of such business units.

(e) "Michigan seal of quality" means any label, tag or other device bearing the official emblem promulgated under the provisions of this act containing the term "Michigan seal of quality" attached to, affixed or placed upon any crate, carton, package or other container of agricultural products grown, packed and processed within this state.

(f) "Products" mean agricultural products grown, packed and processed within this state.

History: 1961, Act 70, Eff. Sept. 8, 1961.

289.633 Emblems; designation of products; quality and grade standards.

Sec. 3. The commission shall design emblems bearing the inscription "Michigan seal of quality", to be used as a seal denoting quality for the purpose of identifying the products to which it may be applied; to designate the products upon which it may be used; and to promulgate the quality and grade standards for products to which it may be applied.

History: 1961, Act 70, Eff. Sept. 8, 1961.

289.634 Agricultural products; standards of quality, establishment.

Sec. 4. Upon the request of any commodity group of producers of agricultural products stating that it is essential to the successful marketing of the products that standards of quality be established, the commission, after not less than 10 days' notice, shall call a public hearing at which any interested person shall have the right to be heard, and thereafter the commission shall determine whether the establishment of standards of quality for the products is necessary to the successful marketing thereof.

History: 1961, Act 70, Eff. Sept. 8, 1961.

289.635 Agricultural products; order establishing standard of quality, size and condition.

Sec. 5. The commission, if it determines that it is necessary to establish standards of quality for any products, shall promulgate an order establishing standards of quality for the products, which standards shall relate to the quality, size and condition thereof.

History: 1961, Act 70, Eff. Sept. 8, 1961.

Administrative rules: R 285.531.1 et seq.; R 285.532.1 et seq.; R 285.539.1; R 285.542.1 et seq.; R 285.543.1 et seq.; R 285.544.1 et seq.; and R 285.546.1 et seq. of the Michigan Administrative Code.

289.636 Seal of quality; protection; inspection; application.

Sec. 6. The commission shall:

(a) Establish a seal denoting quality which shall be registered, advertised and protected by the director.

(b) Promulgate rules for the inspection of products to which the seal is applied.

(c) Authorize the application of the seal to those products conforming to the standards of quality as established by the commission under the provisions of this act.

History: 1961, Act 70, Eff. Sept. 8, 1961.

289.637 Seal of quality; interstate commerce.

Sec. 7. The seal of quality shall not be used as a barrier to interstate commerce, nor is it a substitute for federal grades and standards, or for the federal grading and inspection service on products entering into interstate commerce.

History: 1961, Act 70, Eff. Sept. 8, 1961.

289.638 Seal of quality; supervision of packaging.

Sec. 8. Products to be sold to the consumer in packages to which the seal of quality is applied shall be graded by or under the supervision of competently trained inspectors approved by the department or by graders or supervisors of grading supplied under cooperative agreement between the department and the United States department of agriculture.

History: 1961, Act 70, Eff. Sept. 8, 1961.

289.639 Seal of quality; elective use; conformance.

Sec. 9. Use of the seal of quality shall be elective by any person offering products for sale or other disposition to any other person, but, upon election to use the seal, conformance with the rules and regulations promulgated by the commission shall be mandatory.

History: 1961, Act 70, Eff. Sept. 8, 1961.

289.640 Seal of quality; agreements for grading, supervision of grading.

Sec. 10. For the purpose of giving effect to the provisions of this act, the commission may enter into agreements with any person on such terms and conditions as the commission deems best for the grading, or for the supervision of grading, of products to which the seal of quality is to be applied.

History: 1961, Act 70, Eff. Sept. 8, 1961.

289.641 Seal of quality; fees for labels, grading, supervision of grading.

Sec. 11. The commission shall adopt and may amend from time to time schedules of fees to be charged for labels bearing the seal of quality, for grading and supervision of grading, or for such other services as may be rendered under this act. All fees shall be sufficient to make self-sustaining the grading services performed under this act. All fees shall be deposited in the state treasury and credited to the general fund. The fees assessed under the provisions of this act shall be payable by the person for whom the services are performed and the director shall prescribe the method by which and times when the fees shall be collected.

History: 1961, Act 70, Eff. Sept. 8, 1961.

289.642 Cooperation with agencies of the United States, other states and organizations.

Sec. 12. The director may cooperate with the United States department of agriculture, any other agency of the United States, with any governmental agency or instrumentality of any state, and with any association or organization or persons representative of any product, in market and food investigations, grading, packing, handling, storing and merchandising of products, and in the enforcement of laws, rules and regulations pertaining thereto and in any manner that is desirable for the purpose of this act.

History: 1961, Act 70, Eff. Sept. 8, 1961.

289.643 Inspection of containers; certificates, evidence.

Sec. 13. The director or any person authorized by him shall have free access to any place or conveyance wherein products bearing the "seal of quality" are being marketed, transported or held for commercial purposes; may open any container bearing the seal and examine the contents thereof; and upon tender of the market price may take samples therefrom. The director may employ inspectors to inspect products bearing the seal of quality. Certificates of inspection shall state the date and place of inspection, the grade, condition and approximate quality of the products inspected, and any other pertinent facts that the director requires. The certificate and all federal certificates relative to the condition of quality of the products shall be prima facie evidence in all courts of the state of the facts required to be stated therein.

History: 1961, Act 70, Eff. Sept. 8, 1961.

289.644 Rules and regulations; seizure of nonconforming products.

Sec. 14. The commission shall enforce this act and may promulgate such orders, rules and regulations in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, as are necessary to carry out the purposes of this act. When

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the director, or any person appointed by him, determines that products bearing the seal fail to conform to the quality characteristics and standards promulgated by the commission, the director or his appointee may seize and dispose of the products as provided by section 7 of Act No. 211 of the Public Acts of 1893, as amended, being section 289.37 of the Compiled Laws of 1948.

History: 1961, Act 70, Eff. Sept. 8, 1961.

Administrative rules: R 285.531.1 et seq.; R 285.532.1 et seq.; R 285.539.1; R 285.542.1 et seq.; R 285.543.1 et seq.; R 285.544.1 et seq.; and R 285.546.1 et seq. of the Michigan Administrative Code.

289.645 Violation of act; penalty.

Sec. 15. Any person who holds for sale, offers for sale or sells any product, to which the seal of quality is applied, which does not conform with the quality characteristics and standards for that product is guilty of a misdemeanor and shall be punished by a fine of not less than \$25.00 and not more than \$100.00, or by imprisonment in the county jail for not more than 90 days, or both.

History: 1961, Act 70, Eff. Sept. 8, 1961.

289.646 Commodity committees; establishment; purpose; composition; committee for specific commodity; central committee representative of commodity committees and governmental agencies; number, term, reappointment, compensation, and expenses of committee members.

Sec. 16. The commission, after adopting rules to implement this act, shall establish commodity committees to disseminate information relative to the purposes of this act and to report to the commission in reference to the functioning thereof. Commodity committees shall consist of representatives of producers, first handlers, wholesalers, retailers, and consumers capable of being recognized as representative of the specific commodity interests involved by that industry. The commission may establish committees for any specific commodity when requested to do so by any representative segment of that commodity industry. The commission shall create a central committee representative of all commodity committees and of such other governmental agencies as may have interests in furthering the purposes of this act, upon the request of 3 existing commodity committees. The members of all committees shall be that number determined and approved by the commission. The members of committees shall hold office for a period of 1 year. The commission may reappoint any member of any committee. The per diem compensation of committee members and the schedule for reimbursement of expenses shall be established annually by the legislature.

History: 1961, Act 70, Eff. Sept. 8, 1961;—Am. 1975, Act 66, Imd. Eff. May 20, 1975.

MICHIGAN FOOD LAW OF 1968 Act 39 of 1968

289.701-289.727 Repealed. 2000, Act 92, Eff. Nov. 8, 2000.

FOOD PROCESSING ACT OF 1977 Act 328 of 1978

289.801-289.810 Repealed. 2000, Act 92, Eff. Nov. 8, 2000.

MICHIGAN AGRICULTURAL PROCESSING ACT

Act 381 of 1998

AN ACT to define certain fruit, vegetable, dairy product, meat, and grain processing uses and practices; to provide for circumstances under which a processing operation is not considered to be a public or private nuisance; to provide for certain powers and duties for certain state agencies and departments; and to provide for certain remedies for certain persons.

History: 1998, Act 381, Imd. Eff. Oct. 23, 1998;—Am. 2005, Act 282, Imd. Eff. Dec. 19, 2005.

The People of the State of Michigan enact:

289.821 Short title.

Sec. 1. This act shall be known and may be cited as the “Michigan agricultural processing act”.

History: 1998, Act 381, Imd. Eff. Oct. 23, 1998.

289.822 Definitions.

Sec. 2. As used in this act:

(a) "Dairy product" means all of the following:

(i) Dairy product as that term is defined in section 12 of the manufacturing milk law of 2001, 2001 PA 267, MCL 288.572.

(ii) Milk product as that term is defined in section 4 of the grade A milk law of 2001, 2001 PA 266, MCL 288.474.

(b) "Fruit and vegetable product" means those plant items used by human beings for human food consumption including, but not limited to, field crops, root crops, berries, herbs, fruits, vegetables, flowers, seeds, grasses, tree products, mushrooms, and other similar products, or any other fruit and vegetable product processed for human consumption as determined by the Michigan commission of agriculture.

(c) "Generally accepted fruit, vegetable, dairy product, meat, and grain processing practices" means those practices as defined by the Michigan commission of agriculture. The Michigan commission of agriculture shall give due consideration to available Michigan department of agriculture information and written recommendations from the Michigan state university college of agriculture and natural resources extension and the agricultural experiment station in cooperation with the United States department of agriculture, the United States food and drug administration, the Michigan department of environmental quality, and other professional and industry organizations.

(d) "Grain" means dry edible beans, soy beans, small grains, cereal grains, corn, grass seeds, hay, and legume seeds in a raw or natural state.

(e) "Person" means an individual, corporation, partnership, association, limited liability company, or other legal entity.

(f) "Processing" means the commercial processing or handling of fruit, vegetable, dairy, meat, and grain products for human food consumption and animal feed including, but not limited to, the following:

(i) The generation of noise, odors, waste water, dust, fumes, and other associated conditions.

(ii) The operation of machinery and equipment necessary for a processing operation including, but not limited to, irrigation and drainage systems and pumps and the movement of vehicles, machinery, equipment, and fruit and vegetable products, dairy products, meat, and grain products and associated inputs necessary for fruit and vegetable, dairy, and grain, food, meat, or feed processing operations on the roadway as authorized by the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(iii) The management, storage, transport, utilization, and land application of fruit, vegetable, dairy product, meat, and grain processing by-products consistent with generally accepted agricultural and management practices as established under the Michigan right to farm act, 1981 PA 93, MCL 286.471 to 286.474.

(iv) The conversion from 1 processing operation activity to another processing operation activity.

(v) The employment and use of labor engaged in a processing operation.

(g) "Processing operation" means the operation and management of a business engaged in processing.

History: 1998, Act 381, Imd. Eff. Oct. 23, 1998;—Am. 2005, Act 282, Imd. Eff. Dec. 19, 2005.

289.823 Processing operation as public or private nuisance.

Sec. 3. (1) A processing operation shall not be found to be a public or private nuisance if the processing operation alleged to be a nuisance conforms to generally accepted fruit, vegetable, dairy product, meat, and grain processing practices as determined by the Michigan commission of agriculture. The Michigan commission of agriculture shall annually review and revise, as determined necessary, the generally accepted

fruit, vegetable, dairy product, meat, and grain processing practices.

(2) Until the Michigan commission of agriculture establishes the generally accepted fruit, vegetable, dairy product, meat, and grain processing practices, a processing operation shall not be found to be a public or private nuisance in an action brought in a court of competent jurisdiction if the director of the department of agriculture has determined that the processing operation is in compliance with this act as described in section 4(3).

(3) A processing operation shall not be found to be a public or private nuisance if the processing operation existed before a change in the use or occupancy of land within 1 mile of the boundaries of the land upon which the processing operation is located and, before that change in use or occupancy of land, the processing operation would not have been found to be a nuisance. The determination of the circumstances described in this subsection or subsection (1) or (2) is considered to be a finding as a matter of law and creates a rebuttable presumption that the processing operation is operating under generally accepted practices or that the processing operation is not a public or private nuisance.

(4) A processing operation that is in conformance with subsection (1) or (2) shall not be found to be a public or private nuisance as a result of any of the following:

- (a) A change in ownership or size.
- (b) Temporary cessation or interruption of processing.
- (c) Adoption of new technology.
- (d) A change in type of fruit, vegetable, dairy, meat, or grain product being processed.

History: 1998, Act 381, Imd. Eff. Oct. 23, 1998;—Am. 2005, Act 282, Imd. Eff. Dec. 19, 2005.

289.824 Nuisance complaints; exhaustion of administrative remedies; investigation; memorandum of understanding with department of environmental quality; resolution; notice of finding; determination; costs; "unverified nuisance complaint" defined.

Sec. 4. (1) The Michigan commission of agriculture shall request the director of the Michigan department of agriculture or his or her designee to investigate all nuisance complaints under this act involving a processing operation. If a person is granted a determination by the director of the department of agriculture under this act, the person is considered to have exhausted his or her administrative remedies with regard to that matter. A court shall not proceed with an action for nuisance brought against a processing operation until it finds that the complainant exhausted all administrative remedies.

(2) The Michigan commission of agriculture and the director of the Michigan department of agriculture may enter into a memorandum of understanding with the Michigan department of environmental quality. The investigation and resolution of nuisance complaints shall be conducted pursuant to the memorandum of understanding. In the case where no generally accepted fruit, vegetable, dairy product, meat, and grain processing practices have been established, any nuisance complaint received by either the department of environmental quality or the department of agriculture shall be resolved under section 3 in the following manner:

(a) The department of environmental quality shall assess compliance of an operation or practice with the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, and shall conduct an inspection within 10 working days of receipt of the complaint.

(b) The department of agriculture shall assess the processing operation or practice under federal good manufacturing practices as adopted under the food law of 2000, 2000 PA 92, MCL 289.1101 to 289.8111, and shall conduct an inspection within 10 working days of receipt of the complaint.

(3) Based upon the determinations made in subsection (2), the department of agriculture shall make a finding as to whether a processing operation is in compliance with this act.

(4) If the director of the Michigan department of agriculture or his or her designee finds upon investigation that the person responsible for the processing operation is using generally accepted fruit, vegetable, dairy product, meat, and grain processing practices or otherwise in compliance with law as described in section 3(2), the director of the Michigan department of agriculture or his or her designee shall notify that person and the complainant of this finding in writing. If the director of the Michigan department of agriculture or his or her designee identifies the source or potential sources of the problem caused by the use of other than generally accepted fruit, vegetable, dairy product, meat, and grain processing practices or other than compliance with law as described in section 3(2), the director of the Michigan department of agriculture or his or her designee shall advise the person responsible for the processing operation that necessary changes should be made to resolve or abate the problem and to conform with generally accepted fruit, vegetable, dairy product, meat, and grain processing practices or with applicable law as described in section 3(2). The director of the Michigan department of agriculture or his or her designee shall determine if those changes are implemented and shall notify the person responsible for the processing operation and the complainant of this determination in

writing.

(5) A complainant who brings more than 3 unverified nuisance complaints against the same processing operation within 3 years may be ordered by the director of the Michigan department of agriculture to pay to the Michigan department of agriculture the full costs of investigation of any fourth or subsequent unverified nuisance complaint against the same processing operation. As used in this subsection, "unverified nuisance complaint" means a nuisance complaint in which the director of the department of agriculture or his or her designee determines that the processing operation is using generally accepted fruit, vegetable, dairy product, meat, and grain processing practices.

History: 1998, Act 381, Imd. Eff. Oct. 23, 1998;—Am. 2005, Act 283, Imd. Eff. Dec. 19, 2005.

289.825 Applicability of state and federal statutes.

Sec. 5. (1) This act does not affect the application of state statutes and federal statutes.

(2) For purposes of this section, "state statutes" includes, but is not limited to, any of the following:

- (a) The county zoning act, 1943 PA 183, MCL 125.201 to 125.240.
- (b) The township zoning act, 1943 PA 184, MCL 125.271 to 125.310.
- (c) The city and village zoning act, 1921 PA 207, MCL 125.581 to 125.600.
- (d) The natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.

History: 1998, Act 381, Imd. Eff. Oct. 23, 1998.

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 2007-27

289.841 Abolishment of consumer food safety education fund advisory committee; transfer of powers and duties to department of agriculture.

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the executive branch of state government or in the assignment of functions among its units that the Governor considers necessary for efficient administration;

WHEREAS, there is a continuing need to reorganize functions amongst state departments to ensure efficient administration and effectiveness of government;

WHEREAS, abolishing the Consumer Food Safety Education Fund Advisory Committee will contribute to a smaller and more efficient state government;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. DEFINITIONS

As used in this Order:

A. "Department of Agriculture" means the principal department of state government created under Section 1 of 1921 PA 13, MCL 285.1, and Section 175 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.275.

B. "State Budget Director" means the individual appointed by the Governor pursuant to Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321.

C. "Type III transfer" means that term as defined under Section 3(c) of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.103.

II. TRANSFER OF AUTHORITY

A. Any and all of the authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds of the Consumer Food Safety Education Fund Advisory Committee authorized under Section 4117 of the Food Law of 2000, 2000 PA 92, MCL 289.4117, are transferred by Type III transfer to the Department of Agriculture.

B. The Consumer Food Safety Education Fund Advisory Committee is abolished.

III. IMPLEMENTATION OF TRANSFERS

A. The Director of the Department of Agriculture shall provide executive direction and supervision for the implementation of all transfers of functions under this Order and shall make internal organizational changes as necessary to complete the transfers under this Order.

B. The functions transferred under this Order shall be administered by the Director of the Department of Agriculture in such ways as to promote efficient administration.

C. All records, property, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available, or to be made available to the Consumer Food Safety Education Fund Advisory Committee for the activities, powers, duties, functions, and responsibilities transferred under this Order are transferred to the Department of Agriculture.

D. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system necessary for the implementation of this Order.

IV. MISCELLANEOUS

A. All rules, orders, contracts, and agreements relating to the functions transferred under this Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, repealed, or rescinded.

B. This Order shall not abate any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected under this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected under this Order.

C. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

In fulfillment of the requirements under Section 2 of Article V of the Michigan Constitution of 1963, the provisions of this Order are effective July 29, 2007 at 12:01 a.m.

History: 2007, E.R.O. No. 2007-27, Eff. July 29, 2007.

FOOD LAW OF 2000 Act 92 of 2000

AN ACT to codify the licensure and regulation of certain persons engaged in processing, manufacturing, production, packing, preparing, repacking, canning, preserving, freezing, fabricating, storing, selling, serving, or offering for sale food or drink for human consumption; to prescribe powers and duties of the department of agriculture; to provide for delegation of certain powers and duties to certain local units of government; to provide exemptions; to regulate the labeling, manufacture, distribution, and sale of food for protection of the consuming public and to prevent fraud and deception by prohibiting the misbranding, adulteration, manufacture, distribution, and sale of foods in violation of this act; to provide standards for food products and food establishments; to provide for enforcement of the act; to provide penalties and remedies for violation of the act; to provide for fees; to provide for promulgation of rules; and to repeal acts and parts of acts.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

The People of the State of Michigan enact:

CHAPTER I SHORT TITLE, SCOPE, DEFINITIONS

289.1101 Short title.

Sec. 1101. This act shall be known and may be cited as the "food law of 2000".

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.1103 Scope.

Sec. 1103. The provisions of this act regarding the selling of food shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any food for sale; and the sale, dispensing and giving of food, serving, and the supplying of food in the conduct of any food establishment.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.1105 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.1105.amended *****

289.1105 Definitions; A to C.

Sec. 1105. As used in this act:

(a) "Adulterated" means food to which any of the following apply:

(i) It bears or contains any poisonous or deleterious substance that may render it injurious to health except that, if the substance is not an added substance, the food is not considered adulterated if the quantity of that substance in the food does not ordinarily render it injurious to health.

(ii) It bears or contains any added poisonous or added deleterious substance, other than a substance that is a pesticide chemical in or on a raw agricultural commodity; a food additive; or a color additive considered unsafe within the meaning of subparagraph (v).

(iii) It is a raw agricultural commodity that bears or contains a pesticide chemical considered unsafe within the meaning of subparagraph (v).

(iv) It bears or contains any food additive considered unsafe within the meaning of subparagraph (v) provided that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or tolerance prescribed under subparagraph (v) and the raw agricultural commodity has been subjected to processing the residue of that pesticide chemical remaining in or on that processed food is, notwithstanding the provisions of subparagraph (v) and this subdivision, not be considered unsafe if that residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and if the concentration of that residue in the processed food when ready to eat is not greater than the tolerance prescribed for the raw agricultural commodity.

(v) Any added poisonous or deleterious substance, any food additive, and pesticide chemical in or on a raw agricultural commodity, or any color additive is considered unsafe for the purpose of application of this definition, unless there is in effect a federal regulation or exemption from regulation under the federal act, meat inspection act, poultry product inspection act, or other federal acts, or a rule adopted under this act limiting the quantity of the substance, and the use or intended use of the substance, and the use or intended use of the substance conforms to the terms prescribed by the rule.

(vi) It is or contains a new animal drug or conversion product of a new animal drug that is unsafe within the meaning of section 512 of the federal act, 21 U.S.C. 512.

(vii) It consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance or it is otherwise unfit for food.

(viii) It has been produced, prepared, packed, or held under insanitary conditions in which it may have become contaminated with filth or in which it may have been rendered diseased, unwholesome, or injurious to health.

(ix) It is the product of a diseased animal or an animal that has died other than by slaughter or that has been fed uncooked garbage or uncooked offal from a slaughterhouse.

(x) Its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health.

(xi) A valuable constituent has been in whole or in part omitted or abstracted from the food; a substance has been substituted wholly or in part for the food; damage or inferiority has been concealed in any manner; or a substance has been added to the food or mixed or packed with the food so as to increase its bulk or weight, reduce its quality or strength, or make it appear better or of greater value than it is.

(xii) It is confectionery and has partially or completely imbedded in it any nonnutritive object except in the case of any nonnutritive object if, as provided by rules, the object is of practical functional value to the confectionery product and would not render the product injurious or hazardous to health; it bears or contains any alcohol other than alcohol not in excess of 1/2 of 1% by volume derived solely from the use of flavoring extracts; or it bears or contains any nonnutritive substance except a nonnutritive substance such as harmless coloring, harmless flavoring, harmless resinous glaze not in excess of 4/10 of 1%, harmless natural wax not in excess of 4/10 of 1%, harmless natural gum and pectin or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances which is in or on confectionery by reason of its use for some practical functional purpose in the manufacture, packaging, or storage of such confectionery if the use of the substance does not promote deception of the consumer or otherwise result in adulteration or misbranding in violation of the provisions of this act. For the purpose of avoiding or resolving uncertainty as to the application of this subdivision, the director may issue rules allowing or prohibiting the use of particular nonnutritive substances.

(xiii) It is or bears or contains any color additive that is unsafe within the meaning of subparagraph (v).

(xiv) It has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a rule or exemption under this act or a regulation or exemption under the federal act.

(xv) It is bottled water that contains a substance at a level higher than allowed under this act.

(b) "Advertisement" means a representation disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of food.

(c) "Bed and breakfast" means a private residence that offers sleeping accommodations to transient tenants in 14 or fewer rooms for rent, is the innkeeper's residence in which the innkeeper resides while renting the rooms to transient tenants, and serves breakfasts at no extra cost to its transient tenants. A bed and breakfast is not considered a food service establishment if exempt under section 1107 (l)(iii) or (iv).

(d) "Color additive" means a dye, pigment, or other substance made by process of synthesis or similar artifice or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity from a vegetable, animal, mineral, or other source, or when added or applied to a food or any part of a food is capable alone or through reaction with other substance of imparting color to the food. Color additive does not include any material that is exempt or hereafter is exempted under the federal act. This subdivision does not apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth of other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest. Color includes black, white, and intermediate grays.

(e) "Contaminated with filth" means contamination applicable to any food not securely protected from dust, dirt, and, as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.

(f) "Continental breakfast" means the serving of only non-potentially-hazardous food such as a roll, pastry or doughnut, fruit juice, or hot beverage, but may also include individual portions of milk and other items incidental to those foods.

(g) "Critical violation" or "critical item" means a violation of the food code that the director determines is more likely than other violations to contribute to food contamination, illness to humans, or environmental health hazard.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.1105.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.1105.amended Definitions; A to C.

Sec. 1105. As used in this act:

(a) "Adulterated" means food to which any of the following apply:

(i) It bears or contains any poisonous or deleterious substance that may render it injurious to health except that, if the substance is not an added substance, the food is not considered adulterated if the quantity of that substance in the food does not ordinarily render it injurious to health.

(ii) It bears or contains any added poisonous or added deleterious substance, other than a substance that is a pesticide chemical in or on a raw agricultural commodity; a food additive; or a color additive considered unsafe within the meaning of subparagraph (v).

(iii) It is a raw agricultural commodity that bears or contains a pesticide chemical considered unsafe within the meaning of subparagraph (v).

(iv) It bears or contains any food additive considered unsafe within the meaning of subparagraph (v) provided that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or tolerance prescribed under subparagraph (v) and the raw agricultural commodity has been subjected to processing the residue of that pesticide chemical remaining in or on that processed food is, notwithstanding the provisions of subparagraph (v) and this subdivision, not be considered unsafe if that residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and if the concentration of that residue in the processed food when ready to eat is not greater than the tolerance prescribed for the raw agricultural commodity.

(v) Any added poisonous or deleterious substance, any food additive, and pesticide chemical in or on a raw agricultural commodity, or any color additive is considered unsafe for the purpose of application of this definition, unless there is in effect a federal regulation or exemption from regulation under the federal act, meat inspection act, poultry product inspection act, or other federal acts, or a rule adopted under this act limiting the quantity of the substance, and the use or intended use of the substance, and the use or intended use of the substance conforms to the terms prescribed by the rule.

(vi) It is or contains a new animal drug or conversion product of a new animal drug that is unsafe within the meaning of section 360b of the federal act, 21 USC 360b.

(vii) It consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance or it is otherwise unfit for food.

(viii) It has been produced, prepared, packed, or held under insanitary conditions in which it may have become contaminated with filth or in which it may have been rendered diseased, unwholesome, or injurious to health.

(ix) It is the product of a diseased animal or an animal that has died other than by slaughter or that has been fed uncooked garbage or uncooked offal from a slaughterhouse.

(x) Its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health.

(xi) A valuable constituent has been in whole or in part omitted or abstracted from the food; a substance has been substituted wholly or in part for the food; damage or inferiority has been concealed in any manner; or a substance has been added to the food or mixed or packed with the food so as to increase its bulk or weight, reduce its quality or strength, or make it appear better or of greater value than it is.

(xii) It is confectionery and has partially or completely imbedded in it any nonnutritive object except in the case of any nonnutritive object if, as provided by rules, the object is of practical functional value to the confectionery product and would not render the product injurious or hazardous to health; it bears or contains any alcohol other than alcohol not in excess of 1/2 of 1% by volume derived solely from the use of flavoring extracts; or it bears or contains any nonnutritive substance except a nonnutritive substance such as harmless coloring, harmless flavoring, harmless resinous glaze not in excess of 4/10 of 1%, harmless natural wax not in excess of 4/10 of 1%, harmless natural gum and pectin or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances which is in or on confectionery by reason of its use for some practical functional purpose in the manufacture, packaging, or storage of such confectionery if the use of the substance does not promote deception of the consumer or otherwise result in adulteration or misbranding in violation of the provisions of this act. For the purpose of avoiding or resolving uncertainty as to the application of this subdivision, the director may issue rules allowing or prohibiting the use of particular nonnutritive substances.

(xiii) It is or bears or contains any color additive that is unsafe within the meaning of subparagraph (v).

(xiv) It has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a rule or exemption under this act or a regulation or exemption under the federal act.

(xv) It is bottled water that contains a substance at a level higher than allowed under this act.

(b) "Advertisement" means a representation disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of food.

(c) "Bed and breakfast" means a private residence that offers sleeping accommodations to transient tenants in 14 or fewer rooms for rent, is the innkeeper's residence in which the innkeeper resides while renting the rooms to transient tenants, and serves breakfasts, or other meals in the case of a bed and breakfast described in section 1107(n)(ii), at no extra cost to its transient tenants. A bed and breakfast is not considered a food service establishment if exempt under section 1107(n)(ii) or (iii).

(d) "Color additive" means a dye, pigment, or other substance made by process of synthesis or similar artifice or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity from a vegetable, animal, mineral, or other source, or when added or applied to a food or any part of a food is capable alone or through reaction with other substance of imparting color to the food. Color additive does not include any material that is exempt or hereafter is exempted under the federal act. This subdivision does not apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth of other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest. Color includes black, white, and intermediate grays.

(e) "Contaminated with filth" means contamination applicable to any food not securely protected from dust, dirt, and, as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.

(f) "Continental breakfast" means the serving of only non-potentially-hazardous food such as a roll, pastry or doughnut, fruit juice, or hot beverage, but may also include individual portions of milk and other items incidental to those foods.

(g) "Critical violation" or "critical item" means a violation of the food code that the director determines is more likely than other violations to contribute to food contamination, illness to humans, or environmental health hazard.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 113, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911,

12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.1107 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.1107.amended *****

289.1107 Definitions; D to F.

Sec. 1107. As used in this act:

- (a) “Department” means the Michigan department of agriculture.
- (b) “Director” means the director of the Michigan department of agriculture or his or her designee.
- (c) “Extended retail food establishment” means a retail grocery that does both of the following:
 - (i) Serves or provides an unpackaged food for immediate consumption.
 - (ii) Provides customer seating in the food service area.
- (d) “Federal act” means the federal food, drug, and cosmetic act, chapter 675, 52 Stat. 1040, 21 U.S.C. 301 to 321, 331 to 333, 334 to 343-3, 344 to 346a, 347, 348 to 356c, 358 to 360, 360b to 360dd, 360hh to 363, 371 to 376, and 378 to 397.
- (e) “Food” means articles used for food or drink for humans or other animals, chewing gum, and articles used for components of any such article.
- (f) “Food additive” means any substance, the intended use of which, directly or indirectly, results in or may be reasonably expected to result in its becoming a component or otherwise affecting the characteristics of any food if that substance is not generally recognized among experts as having been adequately shown through scientific procedures to be safe under the conditions of its intended use. Food additive includes any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food and includes any source of radiation intended for any use. Food additive does not include any of the following:
 - (i) A pesticide chemical in or on a raw agricultural commodity.
 - (ii) A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity.
 - (iii) A color additive.
 - (iv) Any substance used in accordance with a sanction or approval granted before the enactment of the food additives amendment of 1958, Public Law 85-929, 72 Stat. 1784, pursuant to the federal act, the poultry products inspection act, Public Law 85-172, 71 Stat. 441, 21 U.S.C. 451 to 471, or the meat inspection act of March 4, 1907, chapter 2907, 34 Stat. 1258.
- (g) “Food code” means food code, 1999 recommendations of the food and drug administration of the United States public health service that regulates the design, construction, management, and operation of certain food establishments.
- (h) “Food concession” means a food storage, preparation, or dispensing operation at a state or county fair.
- (i) “Food establishment” means an operation where food is processed, packed, canned, preserved, frozen, fabricated, stored, prepared, served, sold, or offered for sale. Food establishment includes a food processing plant, a food service establishment, and a retail grocery. Food establishment does not include any of the following:
 - (i) A charitable, religious, fraternal, or other nonprofit organization operating a home-prepared baked goods sale or serving only home-prepared food in connection with its meetings or as part of a fund-raising event.
 - (ii) An inpatient food operation located in a health facility or agency subject to licensure under article 17 of the public health code, MCL 333.20101 to 333.22260.
 - (iii) A food operation located in a prison, jail, state mental health institute, boarding house, fraternity or sorority house, convent, or other facility where the facility is the primary residence for the occupants and the food operation is limited to serving meals to the occupants as part of their living arrangement.
- (j) “Food processing plant” means a food establishment that processes, manufactures, packages, labels, or stores food and does not provide food directly to a consumer.
- (k) “Food service establishment” means a fixed or mobile restaurant, coffee shop, cafeteria, short order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge, nightclub, drive-in, industrial feeding establishment, private organization serving the public, rental hall, catering kitchen, delicatessen, theater, commissary, or similar place in which food or drink is prepared for direct consumption through service on the premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided for the public. Food service establishment does not include any of the following:

- (i) A motel that serves continental breakfasts only.
- (ii) A food concession.
- (iii) A bed and breakfast that has 10 or fewer sleeping rooms, including sleeping rooms occupied by the innkeeper, 1 or more of which are available for rent to transient tenants.
- (iv) A bed and breakfast that has at least 11 but fewer than 15 rooms for rent, if the bed and breakfast serves continental breakfasts only.
- (v) A child care organization regulated under 1973 PA 116, MCL 722.111 to 722.128, unless the establishment is carrying out an operation considered by the director to be a food service establishment.
- (l) "Food warehouse" means a food establishment that stores or distributes prepackaged food for wholesaling.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12908, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.1107.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.1107.amended Definitions; D to F.

Sec. 1107. As used in this act:

- (a) "Department" means the Michigan department of agriculture.
- (b) "Director" means the director of the Michigan department of agriculture or his or her designee.
- (c) "Evaluation" means a food safety audit, inspection, or food safety and sanitation assessment, whether announced or unannounced, that identifies violations or verifies compliance with this act and determines the degree of active control by food establishment operators over foodborne illness risk factors.
- (d) "Extended retail food establishment" means a retail grocery that does both of the following:
 - (i) Serves or provides an unpackaged food for immediate consumption.
 - (ii) Provides customer seating in the food service area.
- (e) "Fair concession" means a food concession, storage, preparation, or dispensing operation at a state or county fair.
- (f) "Federal act" means the federal food, drug, and cosmetic act, 21 USC 301 to 397.
- (g) "Food" means articles used for food or drink for humans or other animals, chewing gum, and articles used for components of any such article.
- (h) "Food additive" means any substance, the intended use of which, directly or indirectly, results in or may be reasonably expected to result in its becoming a component or otherwise affecting the characteristics of any food if that substance is not generally recognized among experts as having been adequately shown through scientific procedures to be safe under the conditions of its intended use. Food additive includes any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food and includes any source of radiation intended for any use. Food additive does not include any of the following:
 - (i) A pesticide chemical in or on a raw agricultural commodity.
 - (ii) A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity.
 - (iii) A color additive.
 - (iv) Any substance used in accordance with a sanction or approval granted before the enactment of the food additives amendment of 1958, Public Law 85-929, pursuant to the federal act, the poultry products inspection act, 21 USC 451 to 471, or the meat inspection act of March 4, 1907, chapter 2907, 34 Stat. 1258.
- (i) "Food code" means food code, 2005 recommendations of the food and drug administration of the United States public health service that regulates the design, construction, management, and operation of certain food establishments.
- (j) "Food establishment" means an operation where food is processed, packed, canned, preserved, frozen, fabricated, stored, prepared, served, sold, or offered for sale. Food establishment includes a food processing plant, a food service establishment, and a retail grocery. Food establishment does not include any of the following:

(i) A charitable, religious, fraternal, or other nonprofit organization operating a home-prepared baked goods sale or serving only home-prepared food in connection with its meetings or as part of a fund-raising event.

(ii) An inpatient food operation located in a health facility or agency subject to licensure under article 17 of the public health code, MCL 333.20101 to 333.22260.

(iii) A food operation located in a prison, jail, state mental health institute, boarding house, fraternity or sorority house, convent, or other facility where the facility is the primary residence for the occupants and the food operation is limited to serving meals to the occupants as part of their living arrangement.

(k) "Food processing plant" means a food establishment that processes, manufactures, packages, labels, or stores food and does not provide food directly to a consumer.

(l) "Food safety and sanitation assessment" means judging or assessing specific food handling activities, events, conditions, or management systems in an effort to determine their potential effectiveness in controlling risks for foodborne illness and required compliance with this act, accompanied by a report of findings.

(m) "Food safety audit" means the methodical examination and review of records, food sources, food handling procedures, and facility cleaning and sanitation practices for compliance with this act, accompanied by a report of findings. Food safety audit includes checking or testing, or both, of observable practices and procedures to determine compliance with standards contained in or adopted by this act, accompanied by a report of findings.

(n) "Food service establishment" means a fixed or mobile restaurant, coffee shop, cafeteria, short order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge, nightclub, drive-in, industrial feeding establishment, private organization serving the public, rental hall, catering kitchen, delicatessen, theater, commissary, food concession, or similar place in which food or drink is prepared for direct consumption through service on the premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided for the public. Food service establishment does not include any of the following:

(i) A motel that serves continental breakfasts only.

(ii) A bed and breakfast that has 10 or fewer sleeping rooms, including sleeping rooms occupied by the innkeeper, 1 or more of which are available for rent to transient tenants.

(iii) A bed and breakfast that has at least 11 but fewer than 15 rooms for rent, if the bed and breakfast serves continental breakfasts only.

(iv) A child care organization regulated under 1973 PA 116, MCL 722.111 to 722.128, unless the establishment is carrying out an operation considered by the director to be a food service establishment.

(o) "Food warehouse" means a food establishment that stores or distributes prepackaged food for wholesaling.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 113, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.1109 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.1109.amended *****

289.1109 Definitions; I to P.

Sec. 1109. As used in this act:

(a) "Imminent or substantial hazard" means a condition at a food establishment that the director determines requires immediate action to prevent endangering the health of people.

(b) "Label" means a display of written, printed, or graphic matter upon the immediate container of any article and includes a requirement imposed under this act that any word, statement, or other information appearing on the display also appear on the outside container or wrapper of the retail package of the article or be easily legible through the outside container or wrapper.

(c) "Labeling" means all labels and other written, printed, or graphic matter upon an article, any of its containers or wrappers, or accompanying the article.

(d) "License limitation" means an action by which the director imposes restrictions or conditions, or both, on a license of a food establishment.

(e) "License holder" means the entity that is legally responsible for the operation of the food establishment including the owner, the owner's agent, or other person operating under apparent authority of the owner possessing a valid license to operate a food establishment.

(f) "Limited wholesale food processor" means a wholesale food processor that has \$25,000.00 or less in annual gross wholesale sales made or business done in wholesale sales in the preceding licensing year, or \$25,000.00 or less of the food is reasonably anticipated to be sold for the current licensing year. Only the food sales from the wholesale food processor operation are used in computing the annual gross sales under this subdivision.

(g) "Local health department" means that term as defined in section 1105 of the public health code, MCL 333.1105, and having those powers and duties as described in part 24 of the public health code, MCL 333.2401 to 333.2498.

(h) "Misbranded" means food to which any of the following apply:

(i) Its labeling is false or misleading in any particular.

(ii) It is offered for sale under the name of another food.

(iii) It is an imitation of another food unless its label bears, in type of uniform size and prominence, the word "imitation" and immediately thereafter the name of the food imitated.

(iv) Its container is so made, formed, or filled as to be misleading.

(v) It is in package form, unless it bears a label containing both the name and place of business of the manufacturer, packer, or distributor and an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count subject to reasonable variations as are permitted and exemptions as to small packages as are established by rules prescribed by the department.

(vi) Any word, statement, or other labeling required by this act is not prominently placed on the label or labeling conspicuously and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(vii) It purports to be or is represented as a food for which a definition and standard of identity have been prescribed by rules as provided by this act or under the federal act, unless it conforms to such definition and standard and its label bears the name of the food specified in the definition and standard, and, insofar as may be required by the rules, the common names of optional ingredients, other than spices, flavoring, and coloring, present in such food.

(viii) It purports to be or is represented to be either of the following:

(A) A food for which a standard of quality has been prescribed by this act or rules and its quality falls below such standard unless its label bears, in such manner and form as such rules specify, a statement that it falls below such standard.

(B) A food for which a standard or standards of fill of container have been prescribed by this act or rules and it falls below the standard of fill of container applicable, unless its label bears, in such manner and form as the rules specify, a statement that it falls below the standard.

(ix) It does not bear labeling clearly giving the common or usual name of the food, if one exists, and if fabricated from 2 or more ingredients, the common or usual name of each ingredient except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each and under other circumstances as established by rules regarding exemptions based upon practicality, potential deception, or unfair competition.

(x) It bears or contains any artificial flavoring, artificial coloring, or chemical preservative unless the labeling states that fact and under other circumstances as established by rules regarding exemptions based upon practicality.

(xi) If a food intended for human consumption and offered for sale, its label and labeling do not bear the nutrition information required under section 403(q) of the federal act, 21 U.S.C. 343.

(xii) It is a product intended as an ingredient of another food and, when used according to the directions of the purveyor, will result in the final food product being adulterated or misbranded.

(xiii) It is a color additive whose packaging and labeling are not in conformity with packaging and labeling requirements applicable to such color additive prescribed under the provisions of the federal act.

(i) "Mobile food establishment" means a food establishment operating from a vehicle or watercraft that returns to a licensed commissary for servicing and maintenance at least once every 24 hours.

(j) "Mobile food establishment commissary" means an operation that is capable of servicing a mobile food establishment.

(k) "Person" means an individual, sole proprietorship, partnership, corporation, association, or other legal entity.

(l) "Pesticide chemical" means any substance that, alone, in chemical combination, or in formulation with 1 or more other substances, is a pesticide within the meaning of the federal insecticide, fungicide, and

rodenticide act, chapter 125, 86 Stat. 973, 7 U.S.C. 136 to 136i, 136j to 136r, and 136s to 136y, and is used in the production, storage, or transportation of raw agricultural commodities.

(m) "Principal display panel" means that part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

(n) "Public health code" means 1978 PA 368, MCL 333.1101 to 333.25211.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2002, Act 487, Imd. Eff. June 27, 2002.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.1109.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.1109.amended Definitions; I to P.

Sec. 1109. As used in this act:

(a) "Imminent or substantial hazard" means a condition at a food establishment that the director determines requires immediate action to prevent endangering the health of people.

(b) "Inspection" means the checking or testing of observable practices against standards established in or adopted by this act, accompanied by a report of findings.

(c) "Juice" means the aqueous liquid expressed or extracted from 1 or more fruits or vegetables, purees of the edible portions of 1 or more fruits or vegetables, or any concentrates of such liquid or puree.

(d) "Label" means a display of written, printed, or graphic matter upon the immediate container of any article and includes a requirement imposed under this act that any word, statement, or other information appearing on the display also appear on the outside container or wrapper of the retail package of the article or be easily legible through the outside container or wrapper.

(e) "Labeling" means all labels and other written, printed, or graphic matter upon an article, any of its containers or wrappers, or accompanying the article.

(f) "License limitation" means an action by which the director imposes restrictions or conditions, or both, on a license of a food establishment.

(g) "License holder" means the entity that is legally responsible for the operation of the food establishment including the owner, the owner's agent, or other person operating under apparent authority of the owner possessing a valid license to operate a food establishment.

(h) "Limited wholesale food processor" means a wholesale food processor that has \$25,000.00 or less in annual gross wholesale sales made or business done in wholesale sales in the preceding licensing year, or \$25,000.00 or less of the food is reasonably anticipated to be sold for the current licensing year. Only the food sales from the wholesale food processor operation are used in computing the annual gross sales under this subdivision.

(i) "Local health department" means that term as defined in section 1105 of the public health code, MCL 333.1105, and having those powers and duties as described in part 24 of the public health code, MCL 333.2401 to 333.2498.

(j) "Milk product" means cream, light cream, light whipping cream, heavy cream, heavy whipping cream, whipped cream, whipped light cream, sour cream, acidified sour cream, cultured sour cream, half-and-half, sour half-and-half, acidified sour half-and-half, cultured sour half-and-half, reconstituted or recombined milk and milk products, concentrated milk, concentrated milk products, skim milk, lowfat milk, frozen milk concentrate, eggnog, buttermilk, cultured milk, cultured lowfat milk, cultured skim milk, yogurt, lowfat yogurt, nonfat yogurt, acidified milk, acidified lowfat milk, acidified skim milk, low-sodium milk, low-sodium lowfat milk, low-sodium skim milk, lactose-reduced milk, lactose-reduced lowfat milk, lactose-reduced skim milk, aseptically processed and packaged milk, milk products with added safe and suitable microbial organisms, and any other milk product made by the addition or subtraction of milkfat or addition of safe and suitable optional ingredients for protein, vitamin, or mineral fortification. Milk product does include dietary dairy products, dairy-based infant formula, ice cream and other frozen desserts, cheese, butter, and any other product derived from milk.

(k) "Misbranded" means food to which any of the following apply:

(i) Its labeling is false or misleading in any particular.

- (ii) It is offered for sale under the name of another food.
- (iii) It is an imitation of another food unless its label bears, in type of uniform size and prominence, the word "imitation" and immediately thereafter the name of the food imitated.
- (iv) Its container is so made, formed, or filled as to be misleading.
- (v) It is in package form, unless it bears a label containing both the name and place of business of the manufacturer, packer, or distributor and an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count subject to reasonable variations as are permitted and exemptions as to small packages as are established by rules prescribed by the department.
- (vi) Any word, statement, or other labeling required by this act is not prominently placed on the label or labeling conspicuously and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.
- (vii) It purports to be or is represented as a food for which a definition and standard of identity have been prescribed by rules as provided by this act or under the federal act, unless it conforms to such definition and standard and its label bears the name of the food specified in the definition and standard, and, insofar as may be required by the rules, the common names of optional ingredients, other than spices, flavoring, and coloring, present in such food.
- (viii) It purports to be or is represented to be either of the following:
 - (A) A food for which a standard of quality has been prescribed by this act or rules and its quality falls below such standard unless its label bears, in such manner and form as such rules specify, a statement that it falls below such standard.
 - (B) A food for which a standard or standards of fill of container have been prescribed by this act or rules and it falls below the standard of fill of container applicable, unless its label bears, in such manner and form as the rules specify, a statement that it falls below the standard.
- (ix) It does not bear labeling clearly giving the common or usual name of the food, if one exists, and if fabricated from 2 or more ingredients, the common or usual name of each ingredient except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each and under other circumstances as established by rules regarding exemptions based upon practicality, potential deception, or unfair competition.
- (x) It bears or contains any artificial flavoring, artificial coloring, or chemical preservative unless the labeling states that fact and under other circumstances as established by rules regarding exemptions based upon practicality.
- (xi) If a food intended for human consumption and offered for sale, its label and labeling do not bear the nutrition information required under section 403(q) of the federal act, 21 USC 343.
- (xii) It is a product intended as an ingredient of another food and, when used according to the directions of the purveyor, will result in the final food product being adulterated or misbranded.
- (xiii) It is a color additive whose packaging and labeling are not in conformity with packaging and labeling requirements applicable to such color additive prescribed under the provisions of the federal act.
- (l) "Mobile food establishment" means a food establishment operating from a vehicle or watercraft that returns to a licensed commissary for servicing and maintenance at least once every 24 hours.
- (m) "Mobile food establishment commissary" means an operation that is capable of servicing a mobile food establishment.
- (n) "Person" means an individual, sole proprietorship, partnership, corporation, association, or other legal entity.
- (o) "Pesticide chemical" means any substance that, alone, in chemical combination, or in formulation with 1 or more other substances, is a pesticide within the meaning of the federal insecticide, fungicide, and rodenticide act, 7 USC 136 to 136y, and is used in the production, storage, or transportation of raw agricultural commodities.
- (p) "Principal display panel" means that part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.
- (q) "Public health code" means 1978 PA 368, MCL 333.1101 to 333.25211.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2002, Act 487, Imd. Eff. June 27, 2002;—Am. 2007, Act 113, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.1111 Definitions; R to W.

Sec. 1111. As used in this act:

(a) "Raw agricultural commodity" means any food in its raw or natural state including fruits that are washed, colored, or otherwise treated in their unpeeled natural form before marketing.

(b) "Regulatory authority" means the department, the local health department, or the authorized representative having jurisdiction over the establishment.

(c) "Retail food establishment" means an operation that sells or offers to sell food directly to a consumer. Retail food establishment includes both a retail grocery and a food service establishment, but does not include a food processing plant.

(d) "Retail grocery" means an operation that sells or offers to sell food to the consumers for off-premises consumption. Off-premises consumption does not include take-out food intended for immediate consumption.

(e) "Rules" means administrative rules promulgated under this act pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(f) "Smoked fish rules" means regulation no. 285.569 of the Michigan administrative code, promulgated under former 1968 PA 39.

(g) "Special transitory food unit" means a temporary food establishment that is licensed to operate throughout the state without the 14-day limits or a mobile food establishment that is not required to return to a commissary.

(h) "Sulfiting agents" means any of the following:

(i) Sulfur dioxide.

(ii) Sodium sulfite.

(iii) Sodium bisulfite.

(iv) Potassium bisulfite.

(v) Sodium metabisulfite.

(vi) Potassium metabisulfite.

(i) "Temporary food establishment" means a food establishment which operates at a fixed location for a temporary period not to exceed 14 consecutive days.

(j) "Temporary license" means a written authorization issued by the director to operate for a specified limited time period.

(k) "Transient tenant" means a person who rents a room in a bed and breakfast for fewer than 30 consecutive days.

(l) "Vending machine" means a self-service device offered for public use that, upon activation by a coin, token, card, key, or paper currency, dispenses unit servings of food or beverages without the necessity of replenishing the device between each vending operation. Vending machine does not include any of the following:

(i) A device that dispenses only bottled or canned soft drinks; other packaged nonperishable foods or beverages; or bulk ball gum, nuts, and panned candies.

(ii) A water-dispensing machine that is registered under chapter IV.

(m) "Vending machine location" means the room, enclosure, space, or area in which 1 or more vending machines are installed and operated.

(n) "Wholesale" means selling to retailers or jobbers rather than directly to consumers.

(o) "Wholesale food processor" means an operation that processes, manufactures, packages, or labels food for wholesaling.

(p) "Wild game" means animals from their natural state and not cultivated, domesticated, or tamed.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.1113 Terms defined in act; meanings.

Sec. 1113. A term defined in the food code has the same meaning when used in this act, except as specifically defined in this act.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.1115 THIS SECTION IS REPEALED BY ACT 113 OF 2007 EFFECTIVE APRIL 1, 2008 *****

289.1115 Repeal of acts and parts of acts.

Sec. 1115. (1) The following acts and parts of acts are repealed 6 months after the date of enactment of this act:

<u>Year</u>	<u>Public Act No.</u>	<u>Compiled Law Sections</u>
1913	384	289.551 to 289.559
1952	228	289.581 to 289.592
1957	166	289.261 to 289.268
1968	39	289.701 to 289.727
1978	328	289.801 to 289.810

(2) Sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, 1978 PA 368, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, are repealed 6 months after the date of enactment of this act.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.1117 THIS SECTION IS REPEALED BY ACT 113 OF 2007 EFFECTIVE APRIL 1, 2008 *****

289.1117 Effective date of act; exceptions.

Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.1119 Rules; “act” and “establishment” defined.

Sec. 1119. (1) Except as rescinded, rules promulgated under public acts repealed by this act retain authorization under this act.

(2) Notwithstanding R 285.553.1 of the Michigan administrative code, the following terms have the following meanings for purposes of those rules:

(a) "Act" means the food law of 2000, 2000 PA 92, MCL 289.1101 to 289.8111.

(b) "Establishment" means any farm crop storage where food is handled, stored, or prepared and that is exempt from the requirements of section 7101.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2002, Act 487, Imd. Eff. June 27, 2002.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.1121 Authority and powers of director.

Sec. 1121. This act does not divest the director of any authority and powers available under part 24 of the public health code, MCL 333.2401 to 333.2498, for the enforcement of this act.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

CHAPTER II

POWERS AND DUTIES OF THE DEPARTMENT

289.2101 Powers and duties of director.

Sec. 2101. (1) The director shall provide for the administration and enforcement of this act. The director may delegate enforcement and administration of this act to certain local health departments in the manner provided for in chapter III.

(2) The director shall investigate complaints and initiate and conduct other investigations as he or she considers advisable to determine violations of this act.

(3) The director may promulgate rules for the enforcement and implementation of this act.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.2103 Retail food advisory board; creation; membership; terms.

Sec. 2103. (1) A retail food advisory board is created within the department to advise the director on the implementation of this act and on the promulgation of rules under this act.

(2) The board shall contain at least 9 members appointed by the director and serving 2-year terms with at least 4 members representing the retail food industry, 2 members representing local health departments, 2 members representing the general public, and other members representing interests as considered appropriate by the director.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

For abolishment of retail food advisory board and transfer of its powers and duties to the department of agriculture, see E.R.O. No. 2007-14, compiled at MCL 285.293.

289.2105 Seizure or embargo of food without warrant; tag or marking as notice of adulterated or misbranded food; complaint; findings and order of court.

Sec. 2105. (1) When necessary for the enforcement of this act, the director may seize without formal warrant any food found to be sold, held for sale, or exposed for sale in violation of this act or rules promulgated under this act.

(2) If the director finds or has probable cause to believe that any food is adulterated or so misbranded as to be dangerous to public health or fraudulent, within the meaning of this act, he or she shall affix to the food a tag or other appropriate marking giving notice that the food is, or is suspected of being, adulterated or misbranded and has been seized or embargoed. A person shall not remove or dispose of the food tagged or marked as embargoed or seized, by sale or otherwise, until permission for removal or disposal is given by the director or a court of competent jurisdiction.

(3) If food seized or embargoed under subsection (1) or (2) is determined by the director to be adulterated or misbranded, he or she shall cause a petition to be filed in circuit court in whose jurisdiction the food is seized or embargoed for a complaint for condemnation of the food. Seized or embargoed food shall be destroyed at the expense of the claimant of the food, under the supervision of the director, and the court may order the payment of the costs and fees and storage and other proper expenses by the claimant of the food or his or her agents. However, if the court finds that adulteration or misbranding can be corrected by proper labeling or processing of the food, after entry of the order; payment of the costs, fees, and expenses; and execution of a good and sufficient bond conditioned that the food shall be so labeled or processed, the court may direct the food to be delivered to the claimant for labeling or processing under the supervision of the director. The claimant shall pay the expense of the supervision. The food shall be returned to the claimant of the food on the representation to the court by the director that the food is no longer in violation of this act and that the expenses of supervision have been paid. If the director determines that the food so seized or embargoed is not adulterated or misbranded, he or she shall remove the tag or other marking.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.2107 Adulterated food as nuisance.

Sec. 2107. (1) If the director finds any adulterated food that the director declares to be a nuisance, the director shall immediately condemn, destroy, or in any other manner render the food unsaleable as human food.

(2) If adulterated or misbranded food is a nuisance, is dangerous to the public health, or is fraudulent and requires the director's supervision, or if the food establishment requests the supervision of the director for sorting, destruction, reconditioning, or other disposition, the food establishment that is in possession of the food at the time of the seizure or embargo is liable for the costs of such supervision.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.2109 Destruction of seized food.

Sec. 2109. If storage of seized food is not possible without risk to the public health, the director shall order immediate destruction of the food to be accomplished without delay by the owner, operator, or person in charge of the food establishment. The food shall be destroyed as specified in the order for destruction.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911,

12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.2111 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.2111.amended *****

289.2111 Inspection of food establishment by director; access; securing samples or specimens of food; examination of records.

Sec. 2111. (1) The director shall have free access at all reasonable hours to any food establishment, including a vehicle used to transport or hold food, for the purpose of inspecting that food establishment or vehicle to determine if any of the provisions of this act are being violated. The director may secure samples or specimens of any food after paying or offering to pay for such samples in order to determine whether any provision of this act is being violated.

(2) The director may examine the records of the food establishment to obtain pertinent information about food, supplies, and equipment purchased, received, or used by, or pertaining to, persons employed by the food establishment or location.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 113, Eff. Jan. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.2111.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.2111.amended Inspection of food establishment by director; access; securing samples or specimens of food; examination of records; photographs or copies of records as evaluation; confidentiality.

Sec. 2111. (1) The director shall have free access at all reasonable hours to any food establishment, including a vehicle used to transport or hold food, for the purpose of evaluating that food establishment or vehicle to determine if any of the provisions of this act are being violated. The director may secure samples or specimens of any food after paying or offering to pay for such samples in order to determine whether any provision of this act is being violated.

(2) The director may examine the records of the food establishment to obtain pertinent information about food, supplies, and equipment purchased, received, or used by, or pertaining to, persons employed by the food establishment or location.

(3) The director may take photographs or copy records as part of an evaluation. When a food establishment identifies by written document or mark that a certain area or record contains visible trade secrets, the director shall identify any photographs of that area or record as being confidential and shall diligently protect the confidentiality.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 113, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.2113 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.2113.amended *****

289.2113 Order to cease food operations; resumption; reinspection; hearing.

Sec. 2113. (1) The director may order immediate cessation of operation of a food establishment upon a determination that continued operation would create an imminent or substantial hazard to the public health.

(2) A food establishment ordered to cease food operations under subsection (1) shall not resume operations until the director determines, upon reinspection, that the conditions responsible for the order to cease operations no longer exist. The director shall offer an opportunity for reinspection upon request of the license

holder of the establishment.

(3) If the director orders an immediate cessation of operation of a food establishment under subsection (1), the license holder may request an administrative hearing.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.2113.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.2113.amended Order to cease food operations; resumption; reevaluation; hearing.

Sec. 2113. (1) The director may order immediate cessation of operation of a food establishment upon a determination that continued operation would create an imminent or substantial hazard to the public health.

(2) A food establishment ordered to cease food operations under subsection (1) shall not resume operations until the director determines, upon reevaluation, that the conditions responsible for the order to cease operations no longer exist. The director shall offer an opportunity for reevaluation upon request of the license holder of the establishment.

(3) If the director orders an immediate cessation of operation of a food establishment under subsection (1), the license holder may request an administrative hearing.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 113, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.2115 Disease transmission by employee; investigations.

Sec. 2115. If the director has reasonable cause to suspect disease transmission by an employee of a food establishment, he or she may secure a morbidity history of the suspected employee and make other investigations as he or she considers necessary.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.2117 Annual report; dissemination of information.

Sec. 2117. The department shall submit to the governor and the legislature an annual report summarizing all judgments, decrees, and court orders, which have been rendered by the department under this act, including the nature of the charge and the disposition thereof. The department may disseminate information regarding food as it considers necessary to protect the health of the consumer and the protection of the consumer against fraud. This section does not prohibit the department from collecting, reporting, and illustrating the results of the investigations of the department.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design,

construction, and equipment established under this act.”

***** 289.2119 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.2119.amended *****

289.2119 Rules; evaluation; criteria.

Sec. 2119. (1) Notwithstanding section 12909(1) of the public health code, MCL 333.12909, the department may promulgate rules to prescribe criteria for food service sanitation programs by local health departments. The department in promulgating these rules shall seek the advice and counsel of local health departments and the food service industry.

(2) The department shall periodically conduct comprehensive evaluations of each local health department's food service sanitation program. The evaluations shall be based on criteria developed by the department with input from local health departments and shall include a review of both of the following:

(a) The adequacy of sanitary conditions in the food service establishments within the local health department jurisdiction.

(b) The competency and training of the food service inspection personnel.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.2119.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.2119.amended Rules; review; criteria.

Sec. 2119. (1) Notwithstanding section 12909(1) of the public health code, MCL 333.12909, the department may promulgate rules to prescribe criteria for food service sanitation programs by local health departments. The department in promulgating these rules shall seek the advice and counsel of local health departments and the food service industry.

(2) The department shall periodically conduct comprehensive reviews of each local health department's food service sanitation program. The reviews shall be based on criteria developed by the department with input from local health departments and shall include a review of both of the following:

(a) The adequacy of sanitary conditions in the food service establishments within the local health department jurisdiction.

(b) The competency and training of the food service inspection personnel.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 113, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.2121 License limitations; notice; hearing.

Sec. 2121. (1) The director may issue a food establishment license with limitations. License limitations may be imposed based upon either of the following determinations:

(a) The site, facility, sewage disposal system, equipment, water supply, or the food supplies, protection, storage, preparation, display, service, or transportation facilities are not adequate to accommodate the proposed or existing menu or otherwise adequate to protect the public health.

(b) Food establishment personnel are not practicing proper food storage, preparation, handling, display, service, or transportation techniques.

(2) The director shall promptly notify a license holder of the imposition of a license limitation. The license holder shall be provided an opportunity for an administrative hearing on the issue of the imposition of the limitation.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.2123 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.2123.amended *****

289.2123 License limitations; reinspection; removal of limitations and reinstatement of license.

Sec. 2123. (1) A person whose license has been limited by the director may, at any time, request a reinspection of the food establishment for the purpose of removing the limitation and reinstating the full license.

(2) Based upon its reinspection, if the director determines that the conditions for removal of the license limitation have been met, he or she shall remove the limitation and reinstate the full license.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.2123.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.2123.amended License limitations; reevaluation; removal of limitations and reinstatement of license.

Sec. 2123. (1) A person whose license has been limited by the director may, at any time, request a reevaluation of the food establishment for the purpose of removing the limitation and reinstating the full license.

(2) Based upon its reevaluation, if the director determines that the conditions for removal of the license limitation have been met, he or she shall remove the limitation and reinstate the full license.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 113, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.2125 Fees.

Sec. 2125. (1) The department shall charge the following fees for the following services:

(a) A reissuance of a duplicate license, \$15.00.

(b) A free-sale letter, \$25.00 per letter in an order and \$5.00 per duplicate letter in the same order.

(c) An evaluation of a food establishment when the evaluation is a second reevaluation of a food establishment that has already been evaluated and found to contain a critical violation or the evaluation is performed at the request of the operator, \$60.00.

(d) A review and approval of training materials, \$60.00 per hour.

(e) A special transitory food unit plan review, \$197.00.

(f) A plan review as specified in section 8-201.11 of the food code, \$197.00.

(2) Fees collected under this section shall be deposited in the dairy and food safety fund for enforcement of this act.

(3) The services referred to in subsection (1)(d) and (e) involve the formal review and approval procedure. The department may provide informal review or answer questions without charging a fee.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 113, Eff. Jan. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.2127 Manager food safety training; conditions for requiring.

Sec. 2127. After a conference with the owner of a retail food establishment for a repeated failure to correct a critical violation, the director may require certain individuals to complete manager food safety training for that food establishment.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.2129 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.2129.amended *****

289.2129 Food safety training materials and programs.

Sec. 2129. (1) Upon request, the department may review and issue approval of food safety training materials and food safety training programs including, but not limited to, home-study programs and computer-assisted training. Approval of food safety training materials and food safety training programs expires 3 years from the date of original issuance.

(2) To receive department approval, a food safety training material shall be reviewed for and contain the following:

(a) Accuracy and consistency with this act and the food code.

(b) Manager knowledge training that includes the knowledge requirements of section 2-102.11 of the food code.

(3) The issuance date for each original certificate issued under an approved food safety training program is the date the individual successfully completes the examination. A certificate expires 5 years from the date of original issuance. Any replacement or duplicate certificate shall have as its expiration date the same expiration date that was on the original certificate. Certified individuals may be recertified by passing a food safety certification examination or through an approved recertification training program.

(4) An individual certified under a training program approved under this section shall be recognized with full faith and credit by a local unit of government throughout the state.

(5) This section does not prohibit any local legislative body from implementing a food handler program, an employee health certification program, or a manager certification program, provided it is not in conflict with this section.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.2129.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.2129.amended Certification of managerial employee under program accredited by American national standards institute; rules.

Sec. 2129. (1) Beginning June 30, 2009, the following food establishments shall employ a minimum of 1 managerial employee who is currently certified under a personnel certification program accredited by the American national standards institute, utilizing the conference for food protection standards:

(a) A food service establishment that is not any of the following:

- (i) A mobile food establishment.
- (ii) Operating under a temporary food service establishment license.
- (iii) A special transitory food unit.
- (iv) A vending machine location.
- (b) An extended retail food establishment.
- (c) The operation of a food service establishment within a retail grocery.
- (2) An individual certified under subsection (1) shall be recognized with full faith and credit by the state and all local units of government throughout the state.
- (3) The department may promulgate rules to do all of the following:
 - (a) By January 1, 2009, develop requirements for retail food establishments to follow when employing certified food safety managers or personnel.
 - (b) Set a reasonable date for compliance with the requirements taking into consideration existing local personnel certification requirements.
 - (c) Establish certification fees necessary to implement, maintain, and track certified individuals directly or by contract. The department may annually adjust the schedule of fees to provide that the fee charged is sufficient to cover the cost of the certification tracking program.
 - (d) Implement and enforce the requirements described in subdivision (a).
 - (e) The certification program developed by the American national standards institute, as it exists on the effective date of the amendatory act that added this section, is incorporated by reference. The department may adopt updates to the certification program accreditation standards in subsection (1) by rule.
- (4) This section does not prohibit any local legislative body from implementing a food handler program, an employee health certification program, or a manager certification program, provided it is not in conflict with this section.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 113, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.2131 Definition and standard of identity; rules fixing and establishing.

Sec. 2131. (1) When the department determines such action will promote honesty and fair dealing in the interest of consumers, the department shall promulgate rules fixing and establishing for any food or class of food a reasonable definition, standard of identity, and reasonable standard of quality and fill of container.

(2) In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the department shall designate the optional ingredients that are required to be named on the label.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

CHAPTER III DELEGATION

***** 289.3103 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.3103.amended *****

289.3103 Definitions.

Sec. 3103. As used in this chapter:

(a) “Certified health department” means a county, district, or city health department that meets the criteria for certification of health departments established by this act and that is authorized by the director to enforce this act for retail groceries, food processing plants, or food concessions.

(b) "Foodborne illness outbreak" means an incident where any of the following occur:

(i) Two or more persons, not of the same household, have ingested a common food and have a similar disease, similar symptoms, or excrete the same pathogens and there is a time, place, or person association between these persons.

(ii) There is a single case of suspected botulism, mushroom poisoning, paralytic shellfish poisoning, or other rare disease.

(iii) There is a case of a disease or poisoning that can be definitely related to ingestion of a food.

(c) "Food service sanitation program" means the systematic activity of the department and a local health department for effective administration and enforcement of the food code and this act, including all of the following:

(i) Periodic inspections of food service establishments, temporary food service establishments, vending machines, and vending machine locations for compliance with law.

(ii) Support of recommendations for licensure with appropriate records.

(iii) Review of plans and specifications for new and extensively remodeled establishments.

(iv) Educational activities.

(v) Investigation of reports of foodborne illnesses.

(vi) Other activities which may be necessary to assure proper implementation of this act.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.3103.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.3103.amended Definitions.

Sec. 3103. As used in this chapter:

(a) "Certified health department" means a county, district, or city health department that meets the criteria for certification of health departments established by this act and that is authorized by the director to enforce this act for retail groceries, food processing plants, or fair concessions.

(b) "Foodborne illness outbreak" means an incident where any of the following occur:

(i) Two or more persons, not of the same household, have ingested a common food and have a similar disease, similar symptoms, or excrete the same pathogens and there is a time, place, or person association between these persons.

(ii) There is a single case of suspected botulism, mushroom poisoning, paralytic shellfish poisoning, or other rare disease.

(iii) There is a case of a disease or poisoning that can be definitely related to ingestion of a food.

(c) "Food service sanitation program" means the systematic activity of the department and a local health department for effective administration and enforcement of the food code and this act, including all of the following:

(i) Periodic evaluations of food service establishments, temporary food service establishments, vending machines, and vending machine locations for compliance with law.

(ii) Support of recommendations for licensure with appropriate records.

(iii) Review of plans and specifications for new and extensively remodeled establishments.

(iv) Educational activities.

(v) Investigation of reports of foodborne illnesses.

(vi) Other activities which may be necessary to assure proper implementation of this act.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 113, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.3105 Enforcement; delegation to local health department; exceptions.

Sec. 3105. (1) The department shall delegate the authority and responsibility for the enforcement of the requirements pertaining to food service establishments contained in this act and the rules promulgated under this act to local health departments meeting the program criteria provided for in this act and rules promulgated under this act. The local health departments shall enforce this act and the rules promulgated under this act and may delegate enforcement authority under an organization approved pursuant to section 2431 of the public health code, MCL 333.2431. If a food service sanitation program is discontinued or is revoked for failure to meet the program criteria, redelegation to a local health department by the director of the program under this section is not required. Local health departments delegated authority under this chapter shall enforce this act and rules promulgated under this act in the manner provided for in part 24 of the public health code, MCL 333.2401 to 333.2498, except that late fees under section 4113, administrative fines under section 5105, and felony penalties under section 5107 are specifically not delegated to the local health departments.

(2) When a food service establishment is a part of a retail grocery or food processing plant and the retail grocery and food processing plant are the predominant part of the food business as determined by the department, authority and responsibility pertaining to that establishment are not delegated under this section.

(3) When a retail grocery or food processing plant is a part of a food service establishment but the food service establishment is the predominant part of the food business as determined by the department, the authority and responsibility for the entire establishment are delegated under subsection (1).

(4) Mobile and temporary food establishments that are predominantly food service establishments as determined by the department are delegated to the local health departments under this section. Mobile and temporary food establishments that are predominantly retail groceries are not delegated under subsection (1).

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.3107 Enforcement; delegation to certified health department.

Sec. 3107. The director may delegate the authority and responsibility for the enforcement of the requirements pertaining to food processing plants, retail grocers, and food concessions contained in this act and any rules adopted under this act to any certified health department. The certified health departments shall enforce this act and any rules promulgated under this act.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.3109 Local health departments as authorized agents.

Sec. 3109. Local health departments that are delegated authority by the director pursuant to this chapter are authorized agents of the director for the purpose of implementing and administering this act and rules promulgated under this act.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.3111 Retention of authority under §§ 333.2401 to 333.2498.

Sec. 3111. The power and authority granted under part 24 of the public health code, MCL 333.2401 to 333.2498, shall be retained by local health departments delegated authority under this act.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.3113 Compliance with applicable local laws; conflict.

Sec. 3113. A county, city, village, or township shall not regulate those aspects of food service establishments or vending machines which are subject to regulation under this act except to the extent necessary to carry out the responsibility of a local health department to implement licensing provisions of chapter IV. This chapter does not relieve the applicant for a license or a licensee from responsibility for securing a local permit or complying with applicable local codes, regulations, or ordinances not in conflict with this act.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.3115 Review of license application by local health department; inspection of establishment or location; forward of approval or limitation to department.

Sec. 3115. (1) A local health department shall promptly review a license application for a food service establishment or vending machine location to determine if the application is complete and accurate. A local health department may return an incomplete or inaccurate application to a license applicant and request any additional information it considers necessary to assure completeness or accuracy of the application.

(2) After a local health department determines that an application is proper, complete, and accurate, it shall inspect the proposed or existing food service establishment or vending machine location to determine compliance with this act. The inspection shall be conducted by the local health department before it makes a recommendation to the department on the issuance of a license.

(3) A local health department shall forward its recommendation for approval of the license or approval with limitation of the license to the department.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.3117 Hearing; enforcement procedure; availability.

Sec. 3117. A local health department may apply procedures for enforcement of this act that provide notice and opportunity for a hearing equivalent in effectiveness to and which protect the rights of the applicant or licensee comparable to the provisions of chapters 4 and 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.292. A local health department shall have a written enforcement procedure and shall make a copy of that procedure available to the public upon request.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act."

333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.3119 Additional license fees; collection; exemptions; adjustments; forwarding applications.

Sec. 3119. (1) Except as otherwise provided for in subsection (2), upon submission of an application, an applicant for a food service establishment license shall pay to the local health department having jurisdiction the required fees authorized by section 2444 of the public health code, MCL 333.2444, and an additional state license fee as follows:

(a) Vending machine location fee	\$ 3.00.
(b) Temporary food service establishment...	\$ 3.00.
(c) Food service establishment.....	\$ 22.00.
(d) Mobile food establishment commissary...	\$ 22.00.
(e) Special transitory food unit.....	\$ 35.00.

(2) When licensing a special transitory food unit, a local health department shall impose a fee of \$135.00, which includes the additional state license fee imposed under subsection (1) unless exempted under subsection (4) or (5).

(3) The state license fee required under subsection (1) shall be collected by the local health department at the time the license application is submitted. The state license fee is due and payable by the local health department to the state within 60 days after the fee is collected.

(4) A charitable, religious, fraternal, service, civic, or other nonprofit organization that has tax-exempt status under section 501(c)(3) of the internal revenue code of 1986 is exempt from paying additional state license fees imposed under this section except for the vending machine location license fee. An organization seeking an exemption under this subsection shall furnish to the department or a local health department evidence of its tax-exempt status.

(5) A veteran who has a waiver of a license fee under the circumstances described in 1921 PA 359, MCL 35.441 to 35.443, is exempt from paying the fees prescribed in this section.

(6) The department shall adjust on an annual basis the fees prescribed by subsections (1) and (2) by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit consumer price index but not to exceed 5%. As used in this subsection, "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the bureau of labor statistics of the United States department of labor or its successor. The adjustment shall be rounded to the nearest dollar to set each year's fee under this subsection, but the absolute value shall be carried over and used to calculate the next annual adjustment.

(7) The local health department shall forward the license applications to the department with appropriate recommendations.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2002, Act 487, Imd. Eff. June 27, 2002;—Am. 2007, Act 113, Eff. Jan. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.3121 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.3121.amended *****

289.3121 Inspections; maintenance and retention of records.

Sec. 3121. (1) The department or a local health department shall conduct inspections in compliance with this act.

(2) Records for all of the following shall be maintained by a local health department:

- (a) Applications for licensure.
- (b) Operation licenses.
- (c) Inspection reports.
- (d) Pertinent correspondence.
- (e) Plans and specifications.

- (f) Administrative actions.
- (g) Other applicable information relating to the operation of each food service establishment.
- (3) A local health department shall maintain a record of all consumer complaints, the ensuing investigation, and the result of the complaint.
- (4) All department and local health department records shall be retained in accordance with the records retention schedule of the department.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.3121.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.3121.amended Evaluations; maintenance and retention of records.

Sec. 3121. (1) The department or a local health department shall conduct evaluations in compliance with this act.

(2) Records for all of the following shall be maintained by a local health department:

- (a) Applications for licensure.
- (b) Operation licenses.
- (c) Evaluation reports.
- (d) Pertinent correspondence.
- (e) Plans and specifications.
- (f) Administrative actions.
- (g) Other applicable information relating to the operation of each food service establishment.

(3) A local health department shall maintain a record of all consumer complaints, the ensuing investigation, and the result of the complaint.

(4) All department and local health department records shall be retained in accordance with the records retention schedule of the department.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 113, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.3123 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.3123.amended *****

289.3123 Inspections as unannounced; frequency.

Sec. 3123. (1) An unannounced compliance inspection of each food service establishment shall be performed at least once every 6 months by a regulatory authority.

(2) A food service establishment which operates for 9 or fewer months each year shall be inspected at least once during the period of operation by a regulatory authority.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.3123.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.3123.amended Evaluations; frequency.

Sec. 3123. (1) A compliance evaluation of each food service establishment shall be performed by the director at least once every 6 months or as required by a statewide department approved risk-based schedule. Risk-based schedules shall be developed in consultation with local health departments.

(2) A food service establishment which operates for 9 or fewer months each year shall be inspected at least once during the period of operation by the director or as prescribed in the department's risk-based schedule.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 113, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.3125 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.3125.amended *****

289.3125 Inspections; reducing frequency; limitation.

Sec. 3125. (1) Subject to subsection (3), a local health department, with the approval of the director and based on criteria developed by the department in consultation with local health departments, may reduce the frequency of inspections of individual food service establishments if the local health department determines that a reduced inspection frequency will not adversely affect food service sanitation practices within the food service establishment.

(2) A food service establishment which, upon investigation, is implicated in a foodborne illness outbreak or chemical intoxication shall be inspected by a regulatory authority in compliance with section 3123 for not less than the next 12 months.

(3) A local health department shall not reduce the minimum frequency of inspections of any food service establishment to less than once each 12 months.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.3125.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.3125.amended Evaluations; reducing frequency; limitation.

Sec. 3125. (1) Subject to subsection (3), a local health department, with the approval of the director and based on criteria developed by the department in consultation with local health departments, may reduce the frequency of evaluations of individual food service establishments if the local health department determines that a reduced evaluation frequency will not adversely affect food service sanitation practices within the food service establishment.

(2) A food service establishment which, upon investigation, is implicated in a foodborne illness outbreak or chemical intoxication shall be evaluated by the director in compliance with section 3123 for not less than the next 12 months.

(3) A local health department shall not reduce the minimum frequency of evaluations of any food service establishment to less than that described in section 3123 unless approved by the department.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 113, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.3127 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.3127.amended *****

289.3127 Inspection findings; report.

Sec. 3127. (1) The findings of an inspection of a food service establishment shall be recorded on an inspection report form approved by the department. The form shall identify those items considered to be critical from a public health standpoint.

(2) The inspection report shall summarize findings relative to compliance with the requirements of this act. The report form shall be signed and dated by the local health department representative.

(3) Upon completion of the inspection, a copy of the completed inspection report form shall be furnished to the person in charge of the food service establishment. The person in charge shall sign the report form acknowledging receipt.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.3127.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.3127.amended Evaluation findings; report.

Sec. 3127. (1) The findings of an evaluation of a food service establishment shall be recorded on an evaluation report form approved by the department. The form shall identify those items considered to be critical from a public health standpoint.

(2) The evaluation report shall summarize findings relative to compliance with the requirements of this act. The report form shall be signed and dated by the local health department representative.

(3) Upon completion of the evaluation, a copy of the completed evaluation report form shall be furnished to the person in charge of the food service establishment. The person in charge shall sign the report form acknowledging receipt.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 113, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.3129 Foodborne diseases and poisonings; allegation; investigation; notice.

Sec. 3129. (1) A local health department shall investigate an allegation of foodborne diseases and poisonings or suspected foodborne diseases and poisonings connected with food service establishments within its jurisdiction and delegated authority and shall promptly make a report of its findings to the department.

(2) If an investigation indicates that a source of a foodborne disease or poisoning was from a food processing, food storage, or similar type of food establishment over which the department has legal jurisdiction or responsibility, the local health department shall immediately notify the director while the local health department is completing the investigation.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.3131 Communications system; development; implementation; provisions; availability of information.

Sec. 3131. (1) A local health department shall develop and implement a communications system with other applicable governmental agencies, individuals, and organizations including, but not limited to, hospital emergency rooms and state and local police. The communications system shall provide the means to contact specific local health department employees and basic information necessary to initiate a foodborne illness outbreak investigation. The information provided in the communications system shall be updated annually.

(2) Procedures for investigating suspected foodborne illness outbreaks shall be implemented consistent with procedures contained in the publication entitled "Procedures to Investigate Foodborne Illness, 5th Ed.," prepared and published by the international association of food protection and incorporated by reference or an equivalent plan submitted to and approved by the department.

(3) All information gathered during the investigation which is not exempted from disclosure under section 13 of the freedom of information act, 1976 PA 442, MCL 15.243, and shall be made available to the owner, operator, or his or her employees to minimize the possibility of reoccurrence of the foodborne illness and to assure compliance with the code and this act.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.3133 Analysis of food samples; utilization of laboratories.

Sec. 3133. Laboratories capable of providing the necessary analyses of food samples shall be utilized by a local health department to assist in the conduct of a food service sanitation program.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.3135 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.3135.amended *****

289.3135 Certification of local health department; application; qualifications.

Sec. 3135. (1) The department shall make available to any local health department an application form to be completed as a request for certification. The application shall provide information needed to substantiate the request to become a certified health department.

(2) A local health department seeking certification shall have sufficient trained administrative, inspection, and support personnel and sufficient equipment to enforce applicable laws and rules consistent with current state standards in all licensed establishments within its jurisdictional boundaries.

(3) A certified health department shall demonstrate to the department the ability to conduct inspections and related activities in accordance with the department's food inspection information management system within prescribed time limitations utilized by the department. Inspection, investigation, and legal actions and related activities shall be reported to the department on forms furnished by the department.

(4) A certified health department must be capable of conducting necessary sampling and produce surveillance equal to state standards.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.3135.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.3135.amended Certification of local health department; application; qualifications.

Sec. 3135. (1) The department shall make available to any local health department an application form to be completed as a request for certification. The application shall provide information needed to substantiate the request to become a certified health department.

(2) A local health department seeking certification shall have sufficient trained administrative, evaluation, and support personnel and sufficient equipment to enforce applicable laws and rules consistent with current state standards in all licensed establishments within its jurisdictional boundaries.

(3) A certified health department shall demonstrate to the department the ability to conduct evaluations and related activities in accordance with the department's electronic evaluation system within prescribed time limitations utilized by the department. Evaluation, investigation, and legal actions and related activities shall be reported to the department on forms furnished by the department.

(4) A certified health department must be capable of conducting necessary sampling and product surveillance equal to state standards.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 113, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.3137 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.3137.amended *****

289.3137 Reports made by certified health departments; review and evaluation; conduct of inspection quality assurance program; report to department; findings of department review or evaluation.

Sec. 3137. (1) The department shall conduct a general review and evaluation of reports and related data made by certified health departments under this act as often as considered necessary by the department.

(2) An inspection quality assurance program consisting of field evaluation of performed inspections conducted by the certified health department shall be routinely conducted by the department at a ratio of approximately 1 per 100 inspections made.

(3) A certified health department shall report annually to the department a summary of all inspections, investigations, samplings, legal actions, and any other actions of a significant nature on a form furnished by the department. This report shall be made annually on the basis of the state fiscal year.

(4) Review or evaluation disclosing adverse findings shall be reported in writing by the department to the health officer of the certified health department within 30 days after the review or evaluation under subsection (1) is completed.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.3137.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.3137.amended Reports made by certified health departments; review and evaluation; conduct of evaluation quality assurance program; report to department; findings of department review or evaluation.

Sec. 3137. (1) The department shall conduct a general review and evaluation of reports and related data made by certified health departments under this act as often as considered necessary by the department.

(2) An evaluation quality assurance program consisting of field evaluation of performed evaluations conducted by the certified health department shall be routinely conducted by the department at a ratio of approximately 1 per 100 evaluations made.

(3) A certified health department shall report annually to the department a summary of all inspections, investigations, samplings, legal actions, and any other actions of a significant nature on a form furnished by

the department. This report shall be made annually on the basis of the state fiscal year.

(4) A review disclosing adverse findings shall be reported in writing by the department to the health officer of the certified health department within 30 days after the review under subsection (1) is completed.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 113, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.3139 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.3139.amended *****

289.3139 Notice of deficiencies; hearing; revocation of certification; reapplication.

Sec. 3139. (1) If a certified health department fails to meet the requirements established in this act or rules promulgated under this act, written notice of deficiencies shall be furnished to the health officer of that certified health department within 30 days after completion of the review or evaluation under section 3137. This notice shall offer an opportunity to the health officer of the certified health department for a hearing with the director. If a hearing is not requested, certification issued under this chapter shall be revoked within 30 days following the notice to the health officer of the certified health department. If a hearing is held and deficiencies are not corrected within the time period specified in the hearing, certification shall be revoked within the time period specified in the hearing.

(2) If requested by the health officer of the certified health department in a written notice to the director, certification issued under this chapter shall be revoked within 30 days of receipt of the written notice.

(3) Revocation of certification issued under this chapter does not restrict a health department from reapplication for certification.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.3139.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.3139.amended Notice of deficiencies; hearing; revocation of certification; reapplication.

Sec. 3139. (1) If a certified health department fails to meet the requirements established in this act or rules promulgated under this act, written notice of deficiencies shall be furnished to the health officer of that certified health department within 30 days after completion of the review under section 3137. This notice shall offer an opportunity to the health officer of the certified health department for a hearing with the director. If a hearing is not requested, certification issued under this chapter shall be revoked within 30 days following the notice to the health officer of the certified health department. If a hearing is held and deficiencies are not corrected within the time period specified in the hearing, certification shall be revoked within the time period specified in the hearing.

(2) If requested by the health officer of the certified health department in a written notice to the director, certification issued under this chapter shall be revoked within 30 days of receipt of the written notice.

(3) Revocation of certification issued under this chapter does not restrict a health department from reapplication for certification.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 113, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

CHAPTER IV LICENSING

***** 289.4101 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.4101.amended *****

289.4101 Food establishment license; scope.

Sec. 4101. (1) Except as provided in section 4105, a person shall not operate a food establishment unless licensed by the department as a food establishment.

(2) Separate areas for food service or preparation located in 1 building and operated under 1 management are considered to be 1 food establishment and only 1 license is required.

(3) Except as otherwise provided in this act, a city, county, or other local unit of government shall not adopt or enforce licensing ordinances or regulations for persons regulated under this act.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.4101.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.4101.amended Food establishment license; scope.

Sec. 4101. (1) Except as provided in section 4105, a person shall not operate a food establishment unless licensed by the department as a food establishment.

(2) Separate areas for food service or preparation located in 1 building and actively operated under 1 management are considered to be 1 food establishment and only 1 license is required. The director may require separate licenses for these areas if managed separately even though under the same owner.

(3) Except as otherwise provided in this act, a city, county, or other local unit of government shall not adopt or enforce licensing ordinances or regulations for persons regulated under this act.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 113, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.4103 Application for license; submission; forms; information; mobile food establishment license; commissary service; temporary license.

Sec. 4103. (1) An applicant shall submit an application for a food establishment license at least 30 calendar days before the date planned for its opening or the change of ownership. For temporary food establishments applying less than 4 days from opening, the director may charge twice the applicable license fee to perform the licensing evaluation.

(2) Application for the license under subsection (1) shall be submitted upon the forms approved by the department and shall contain the reasonable information required by the department to process the application.

(3) An application for a mobile food establishment license shall include all of the following information:

(a) The location and dates of the operation.

(b) The name and address of the commissary that will service the applicant.

(4) Within 10 days after a change in the servicing commissary, the mobile food establishment licensee shall submit an affidavit containing the name and address of the new commissary servicing the licensee.

(5) The director may issue a temporary food establishment license.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 113, Eff. Jan. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a

food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.4105 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.4105.amended *****

289.4105 Person, establishment, or organization exempt from licensure.

Sec. 4105. (1) Except as otherwise provided for in subsection (2), a person, establishment, or organization that is 1 or more of the following is exempt from the licensure requirements under this act:

(a) Subject to subsection (2), an establishment licensed under 1 of the following acts while conducting activities within the scope of that act:

<u>Public Act No.</u>	<u>Year</u>	<u>Compiled Law Sections</u>
184	1913	445.331 to 445.341
222	1913	288.101 to 288.117
141	1939	285.61 to 285.82a
228	1959	286.371 to 286.379
158	1964	290.451 to 290.466
233	1965	288.21 to 288.29a
298	1968	288.321 to 288.334

(b) A produce stand that offers only whole uncut fresh fruits and vegetables.

(c) Consumers or nonprofit cooperatives of consumers providing products only for their own use.

(d) Nonprofit cooperatives who are growers or producers selling unprocessed products of their own production.

(e) Retail outlets for the sale of prepackaged honey or maple syrup produced in Michigan if the outlet is operated by the producer and the processing facility is licensed under this act.

(f) A temporary food establishment with no food preparation using only single-service articles and serving only non-potentially-hazardous food or beverage.

(g) A retail food establishment that does both of the following:

(i) Only sells prepackaged, non-potentially-hazardous foods.

(ii) Offers only an incidental amount of food, such as the sale of single-service packages.

(h) A commercial fishing guide service that serves lunch to a party of not more than 12 clients on or adjacent to a body of water, river, or stream while pursuing, capturing, catching, killing, taking, or attempting to take fish. As used in this subparagraph, “commercial fishing guide service” means a service provided for a fee or other valuable consideration, regardless of whether the fee or other valuable consideration is paid directly or indirectly, to assist another person in pursuing, capturing, catching, killing, taking, or attempting to take fish.

(i) A person owning or operating a device that dispenses only bottled or canned soft drinks; other packaged nonperishable foods or beverages; or bulk gum, nuts, and panned candies.

(2) Notwithstanding subsection (1)(a), a person operating as or conducting activities the director considers to be a food establishment must be licensed in the appropriate category under this act.

(3) If food is prepared in a food service establishment licensed under this chapter and the food is transported from the food service establishment to a fixed temporary serving location, the serving location is not required to be separately licensed and is considered an extension of the food service establishment if no food preparation is conducted at the serving location and the food is transported and served by employees of the food service establishment.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.4105.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.4105.amended Person, establishment, or organization exempt from licensure.

Sec. 4105. (1) Except as otherwise provided for in subsection (2), a person, establishment, or organization that is 1 or more of the following is exempt from the licensure requirements under this act:

(a) Subject to subsection (2), an establishment licensed under 1 of the following acts while conducting activities within the scope of that act:

<u>Public Act No.</u>	<u>Year</u>	<u>Compiled Law Sections</u>
141	1939	285.61 to 285.88
228	1959	286.371 to 286.379
158	1964	290.451 to 290.466
266	2001	288.471 to 288.540
267	2001	288.561 to 288.740

(b) A person that is offering only whole uncut fresh fruits and vegetables directly to consumers.

(c) Consumers or nonprofit cooperatives of consumers in compliance with the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, providing products from regulated sources only for their own use.

(d) Nonprofit cooperatives in compliance with the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, who are growers selling unprocessed products of their own production or are producers selling unprocessed products of their own production from regulated sources.

(e) Retail outlets for the sale of prepackaged honey or maple syrup produced in Michigan if the outlet is operated by the producer and the processing facility is licensed under this act.

(f) A temporary food establishment with no food preparation using only single-service articles and serving only non-potentially-hazardous food or beverage.

(g) A retail food establishment that does both of the following:

(i) Only sells prepackaged, non-potentially-hazardous foods.

(ii) Offers only an incidental amount of food, such as the sale of single-service packages.

(h) A mobile food establishment, such as an ice cream truck, that offers only prepackaged, single-serving frozen desserts.

(i) An event not open to the general public held by a nonprofit trade association representing food establishments, suppliers, or manufacturers where limited food preparation takes place for the purpose of advertising, displaying, promoting, and sampling prepared food.

(j) A commercial fishing guide service that serves lunch to a party of not more than 12 clients on or adjacent to a body of water, river, or stream while pursuing, capturing, catching, killing, taking, or attempting to take fish. As used in this subparagraph, "commercial fishing guide service" means a service provided for a fee or other valuable consideration, regardless of whether the fee or other valuable consideration is paid directly or indirectly, to assist another person in pursuing, capturing, catching, killing, taking, or attempting to take fish.

(k) A person owning or operating a device that dispenses only bottled or canned soft drinks; other packaged nonperishable foods or beverages; or bulk gum, nuts, and panned candies.

(l) Feeding operations set up in response to an emergency or disaster.

(2) Notwithstanding subsection (1)(a), a person operating as or conducting activities the director considers to be a food establishment must be licensed in the appropriate category under this act.

(3) If food is prepared in a food service establishment licensed under this chapter and the food is transported from the food service establishment to a fixed temporary serving location, the serving location is not required to be separately licensed and is considered an extension of the food service establishment if no food preparation is conducted at the serving location and the food is transported and served by employees of the food service establishment.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 113, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.4107 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.4107.amended *****

289.4107 Food establishment license; qualifications.

Sec. 4107. To qualify for a food establishment license, an applicant shall do all of the following:

- (a) Submit an application on a form provided by the department.
- (b) Be an owner of the food establishment or an officer of the legal entity owning the food establishment.
- (c) Comply with the requirements of this act and rules promulgated under this act.
- (d) Allow the director access to the proposed food establishment in order to determine compliance with the applicable requirements of this act and rules.
- (e) Pay the applicable license fees at the time the application is submitted.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.4107.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.4107.amended Food establishment license; qualifications.

Sec. 4107. To qualify for a food establishment license, an applicant shall do all of the following:

- (a) Submit an application as required by section 4103.
- (b) Be an owner of the food establishment or an officer of the legal entity owning the food establishment.
- (c) Comply with the requirements of this act and rules promulgated under this act.
- (d) Allow the director access to the proposed food establishment in order to determine compliance with the applicable requirements of this act and rules.
- (e) Pay the applicable license fees at the time the application is submitted.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 113, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.4109 Expiration of license; duration of temporary license.

Sec. 4109. A license, other than a license for a temporary food service establishment, expires at midnight on April 30 each year. The department may issue a temporary food license for a period not to exceed 14 days.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.4111 License fees; food sanitation fees; initial application fee as nonrefundable; convenience fee.

Sec. 4111. (1) The department shall impose the following license fees for each year or portion of a year:

- (a) Retail food establishment: \$67.00.
- (b) Extended retail food establishment: \$172.00.
- (c) Wholesale food processor: \$172.00.
- (d) Limited wholesale food processor: \$67.00.
- (e) Mobile food establishment: \$172.00.
- (f) Temporary food establishment: \$25.00.
- (g) Special transitory food unit: \$135.00.
- (h) Mobile food establishment commissary: \$172.00.

(i) Food warehouse: \$67.00.

(j) Food service establishment: the amounts described in subsection (2).

(2) If a local health department no longer conducts a food service sanitation program, the department, in consultation with the commission of agriculture, shall set the food sanitation fees to be imposed for the department's services performed under subsection (1)(j). The fees imposed shall equal, as nearly as possible, 1/2 of the department's cost of providing the service. The conduct of the services resulting from a cessation of a food service sanitation program is considered an imminent or substantial hazard that allows the department to impose the service fees for up to 12 months after the date of cessation by the local health department. After the 12-month period, the department shall collect the fees only in the amount provided by amendment of this act or as authorized pursuant to appropriation.

(3) Any license fee paid on an initial application is nonrefundable.

(4) The department may charge a convenience fee and collect from the applicant any additional costs associated with the method of fee payment for the license or permit fees described in this chapter, not to exceed the costs to the department.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2002, Act 487, Imd. Eff. June 27, 2002;—Am. 2007, Act 114, Eff. Jan. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.4113 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.4113.amended *****

289.4113 Late fee; imposition; waiver; retention; use.

Sec. 4113. (1) The department shall impose, for a renewal application postmarked or delivered in person beginning May 1 of each year, a late fee of an additional \$10.00 for each business day the application is late. The late fee for a new application submitted after the establishment has opened for business is an additional \$10.00 for each business day the application is late. The total late fee shall not exceed \$100.00.

(2) The department shall not issue or renew a license until the fee and any late fee have been paid. A hearing is not required regarding the department's refusal to issue or renew a license under this section.

(3) The department may waive the late fee for producers of maple syrup, honey, and other seasonal agricultural products if the license application is submitted not less than 30 days before the applicant engages in processing, packing, freezing, storing, selling, or offering for sale the food or drink described in this subsection.

(4) The late fee shall be retained by any certified health department or, in an area where there is no certified health department, by the department.

(5) The department shall use the late fee for the administration and enforcement of this act.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.4113.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.4113.amended Late fee; imposition; waiver; retention; use.

Sec. 4113. (1) The department shall impose, for a renewal application postmarked or delivered in person beginning May 1 of each year, a late fee of an additional \$10.00 for each business day the application is late. The late fee for a new application submitted after the establishment has opened for business is an additional \$10.00 for each business day the application is late. The total late fee shall not exceed \$100.00.

(2) The department shall not issue or renew a license until the fee and any late fee, reinspection fees, and fines have been paid. A hearing is not required regarding the department's refusal to issue or renew a license under this section except as allowed under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(3) The department may waive the late fee for producers of maple syrup, honey, and other seasonal agricultural products if the license application is submitted not less than 30 days before the applicant engages in processing, packing, freezing, storing, selling, or offering for sale the food or drink described in this subsection.

(4) The late fee shall be retained by any certified health department or, in an area where there is no certified health department, by the department.

(5) The department shall use the late fee for the administration and enforcement of this act.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 114, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.4115 Bottled water; registration of brand; expiration; late fee.

Sec. 4115. (1) A water bottler or water dispensing machine owner shall register with the department each brand of bottled water with a unique declaration of identity before the sale or offering for sale of the water. The application for registration shall be made on a form prescribed by the department and shall include both of the following:

(a) The proposed label or placard for the water.

(b) For each year or portion of a year, a registration fee of \$25.00 for each brand of water with a unique declaration of identity and \$25.00 for each water dispensing machine.

(2) The registration required by subsection (1) expires annually on April 30 and shall be renewed 30 calendar days before expiration of the current registration.

(3) The department shall assess a late fee of \$25.00 for bottled water or water from a water dispensing machine that is sold or offered for sale without registration. A registration is not effective until the late fee is paid.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.4116 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.4116.amended *****

289.4116 Receipt of completed application; issuance of license within certain time period; report; “completed application” defined.

Sec. 4116. (1) Beginning the effective date of the amendatory act that added this subsection and notwithstanding any other provision of this act, the department shall issue an initial license not later than 90 days after the applicant files a completed application and shall issue a renewal license not later than 120 days after the applicant files a completed application. Receipt of the application is considered the date the application is received by any agency or department of the state of Michigan. If the application is considered incomplete by the department, the department shall notify the applicant in writing, or make the information electronically available, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The period regarding license issuance and renewal is tolled upon notification by the department of a deficiency until the date the requested information is received by the department. The determination of the completeness of an application does not operate as an approval of the application for the license and does not confer eligibility upon an applicant determined otherwise ineligible for issuance of a license.

(2) If the department fails to issue or deny a license within the time required by this section, the department shall return the license fee and shall reduce the license fee for the applicant's next renewal application, if any, by 15%. The failure to issue a license within the time required under this section does not allow the department to otherwise delay the processing of the application, and that application, upon completion, shall be placed in sequence with other completed applications received at that same time. The department shall not

discriminate against an applicant in the processing of the application based upon the fact that the license fee was refunded or discounted under this subsection.

(3) Beginning October 1, 2005, the director of the department shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with agricultural and food issues. The director shall include all of the following information in the report concerning the preceding fiscal year:

(a) The number of initial and renewal applications the department received and completed within the appropriate time period described in subsection (1).

(b) The number of applications denied.

(c) The number of applicants not issued a license within the appropriate time period and the amount of money returned to licensees and registrants under subsection (2).

(4) As used in this section, "completed application" means an application complete on its face and submitted with any applicable licensing fees as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of the state of Michigan. In the case of an initial application, completed application includes the completion of construction or renovation of any facility and the passing of a satisfactory inspection.

History: Add. 2004, Act 267, Imd. Eff. July 23, 2004.

***** 289.4116.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.4116.amended Receipt of completed application; issuance of license within certain time period; report; "completed application" defined.

Sec. 4116. (1) Beginning the effective date of the amendatory act that added this subsection and notwithstanding any other provision of this act, the department shall issue an initial license not later than 90 days after the applicant files a completed application and shall issue a renewal license not later than 120 days after the applicant files a completed application. Receipt of the application is considered the date the application is received by any agency or department of the state of Michigan. If the application is considered incomplete by the department, the department shall notify the applicant in writing, or make the information electronically available, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The period regarding license issuance and renewal is tolled upon notification by the department of a deficiency until the date the requested information is received by the department. The determination of the completeness of an application does not operate as an approval of the application for the license and does not confer eligibility upon an applicant determined otherwise ineligible for issuance of a license.

(2) If the department fails to issue or deny a license within the time required by this section to an establishment that is otherwise ready to operate and is prevented from operating, the department shall return the license fee and shall reduce the license fee for the applicant's next renewal application, if any, by 15%. The failure to issue a license within the time required under this section does not allow the department to otherwise delay the processing of the application, and that application, upon completion, shall be placed in sequence with other completed applications received at that same time. The department shall not discriminate against an applicant in the processing of the application based upon the fact that the license fee was refunded or discounted under this subsection.

(3) Beginning October 1, 2005, the director of the department shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with agricultural and food issues. The director shall include all of the following information in the report concerning the preceding fiscal year:

(a) The number of initial and renewal applications the department received and completed within the appropriate time period described in subsection (1).

(b) The number of applications denied.

(c) The number of applicants not issued a license within the appropriate time period and the amount of money returned to licensees and registrants under subsection (2).

(4) As used in this section, "completed application" means an application complete on its face and submitted with any applicable licensing fees as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of the state of Michigan. In the case of an initial application, completed application includes the completion of construction or renovation of any facility and the passing of a satisfactory evaluation.

History: Add. 2004, Act 267, Imd. Eff. July 23, 2004;—Am. 2007, Act 114, Eff. Apr. 1, 2008.

***** 289.4117 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.4117.amended *****

289.4117 Disposition of money collected; consumer food safety education fund; industry food-safety education fund; creation; advisory committee; use and carrying forward of funds; “fee-exempt food establishment” defined.

Sec. 4117. (1) Except as provided in subsections (2) and (3), money collected under this chapter by the department shall be credited to the general fund of the state.

(2) A consumer food safety education fund is created as a revolving fund in the department of treasury. The consumer food safety education fund shall be administered by the department and funded by adding \$3.00 to the fee for each food establishment license in all categories except vending machines and in cases of fee-exempt food establishments. The money in the fund shall be used to provide statewide training and education to consumers on food safety. An advisory committee consisting of at least 9 people representing consumers, industry, government, and academia shall advise the department on the use of the funds. Money remaining in the fund at the end of the fiscal year shall be carried forward into the next fiscal year.

(3) An industry food-safety education fund is created as a revolving fund in the department of treasury. The industry food-safety education fund shall be administered by the department and funded by adding \$2.00 to the fee for each food service establishment license in all categories except vending machines and in cases of fee-exempt food establishments. The money in the fund shall be used to provide food safety training and education to food service establishment employees and agents of the director who enforce this act. The advisory committee created in subsection (2) shall advise the department on the use of the funds. Money remaining in the fund at the end of the fiscal year shall be carried forward into the next fiscal year.

(4) As used in this section, “fee-exempt food establishment” means a food establishment exempt from all state and local food establishment license fees under either of the following circumstances:

(a) The education institution exemption under section 3119(4).

(b) A nonprofit organization that has an exemption under section 3119(5) combined with an exemption from the local health department sanitation service fee under section 2444 of the public health code, MCL 333.2444.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2002, Act 487, Imd. Eff. June 27, 2002.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.4117.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.4117.amended Dairy and food safety fund; credit of money collected; creation; investment; lapse; administration; consumer food safety education fund; industry food-safety education fund; creation; advisory committee; use and carrying forward of funds; “fee-exempt food establishment” defined.

Sec. 4117. (1) Except as provided in subsections (2) and (3), money collected under this chapter by the department shall be credited to the dairy and food safety fund that is created as a restricted fund within the state treasury. The state treasurer may receive money or other assets, from appropriations or from any other source, for deposit into the fund. The state treasurer shall direct the investment of the fund. The money in the fund shall not lapse to the general fund at the end of the fiscal year and shall carry over to the following fiscal years. The state treasurer shall credit to the fund interest and earnings from fund investments. The department shall administer the fund and shall expend money from the fund for the purpose of administering this act and enforcing the provisions of this act, the grade A milk law of 2001, 2001 PA 266, MCL 288.471 to 288.540, and the manufacturing milk law of 2001, 2001 PA 267, MCL 288.561 to 288.740. The department shall be the administrator of the fund for auditing purposes.

(2) A consumer food safety education fund is created as a revolving fund in the department of treasury. The consumer food safety education fund shall be administered by the department and funded by adding \$3.00 to the fee for each food establishment license in all categories except vending machines and in cases of fee-exempt food establishments. The money in the fund shall be used to provide statewide training and

education to consumers on food safety. An advisory committee consisting of at least 9 people representing consumers, industry, government, and academia shall advise the department on the use of the funds. Money remaining in the fund at the end of the fiscal year shall be carried forward into the next fiscal year.

(3) An industry food-safety education fund is created as a revolving fund in the department of treasury. The industry food-safety education fund shall be administered by the department and funded by adding \$2.00 to the fee for each food service establishment license in all categories except vending machines and in cases of fee-exempt food establishments. The money in the fund shall be used to provide food safety training and education to food service establishment employees and agents of the director who enforce this act. The advisory committee created in subsection (2) shall advise the department on the use of the funds. Money remaining in the fund at the end of the fiscal year shall be carried forward into the next fiscal year.

(4) As used in this section, "fee-exempt food establishment" means a food establishment exempt from all state and local food establishment license fees under section 3119(4) combined with an exemption from the local health department sanitation service fee under section 2444 of the public health code, MCL 333.2444.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2002, Act 487, Imd. Eff. June 27, 2002;—Am. 2007, Act 114, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.4119 Posting and display of license; "conspicuous place" explained.

Sec. 4119. (1) Except as otherwise provided in subsection (2), a person licensed as a food establishment under this chapter shall keep a copy of the current license or temporary license furnished by the department posted and exposed in a conspicuous place for public inspection. A conspicuous place is the principal place where food business is transacted.

(2) In the case of vending machines, the name and address and telephone number of the current vending machine location operator shall be conspicuously displayed on each vending machine.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.4121 Changes proposed by food establishment; notice.

Sec. 4121. Thirty days before a food establishment proposes either of the following changes, a licensee shall notify the regulatory authority having jurisdiction of that proposed change:

(a) A change in the type of license even if the change would not result in the change of the regulatory authority having jurisdiction over the activity.

(b) A change in the type of license that would result in the change of the regulatory authority having jurisdiction over the activity.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.4123 Transfer of license.

Sec. 4123. A food establishment license is not transferable as to the holder or the location.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.4125 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.4125.amended *****

289.4125 Issuance of license; requirements; hearing; revocation or suspension of license; summary suspension.

Sec. 4125. (1) Before a food establishment license is issued, the director shall determine if the applicant meets the minimum requirements of this act and rules promulgated under this act.

(2) After an opportunity for a hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, the director may revoke or suspend a food establishment license or a registration for bottled water issued under this act for failure to comply with requirements of this act or a rule promulgated under this act. A person whose registration for bottled water is revoked or suspended shall discontinue the sale and offering for sale of the bottled water until he or she complies with this act and the director issues a new registration or removes the suspension.

(3) Based upon facts submitted by a person familiar with those facts or upon information and belief alleging that an imminent threat to the public health, safety, or welfare exists, the director may summarily suspend a license or registration issued under this act. A person whose license or registration has been summarily suspended under this section may petition the director to dissolve the order. Upon receipt of such a petition, the director shall immediately schedule a hearing to decide whether to grant or deny the petition to dissolve. The presiding officer shall grant the requested relief dissolving the summary suspension order unless sufficient evidence is presented that an imminent threat to the public health, safety, or welfare exists requiring emergency action and continuation of the director's summary suspension order.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.4125.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.4125.amended Issuance of license; requirements; hearing; revocation or suspension of license; period of refusal to issue or reissue license; summary suspension.

Sec. 4125. (1) Before a food establishment license is issued, the director shall determine if the applicant meets the minimum requirements of this act and rules promulgated under this act.

(2) After an opportunity for a hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, the director may revoke or suspend a food establishment license or a registration for bottled water issued under this act for failure to comply with requirements of this act or a rule promulgated under this act. A person whose registration for bottled water is revoked or suspended shall discontinue the sale and offering for sale of the bottled water until he or she complies with this act and the director issues a new registration or removes the suspension.

(3) For a person whose food establishment license has been revoked for egregious violations under section 5101(a), (b), (c), or (k), the director may refuse to issue or reissue a license to any establishment in which that person has ownership or management interest for a period of 2 years.

(4) Based upon facts submitted by a person familiar with those facts or upon information and belief alleging that an imminent threat to the public health, safety, or welfare exists, the director may summarily suspend a license or registration issued under this act. A person whose license or registration has been summarily suspended under this section may petition the director to dissolve the order. Upon receipt of such a petition, the director shall immediately schedule a hearing to decide whether to grant or deny the petition to dissolve. The presiding officer shall grant the requested relief dissolving the summary suspension order unless sufficient evidence is presented that an imminent threat to the public health, safety, or welfare exists requiring emergency action and continuation of the director's summary suspension order.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 114, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.4127 Summary suspension of license; petition for hearing; commencement of proceedings; reinstatement.

Sec. 4127. (1) After the regulatory authority receives a petition for a hearing from a license holder whose license is summarily suspended under section 4125, the proceedings shall be promptly commenced and determined as required by section 92 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.292.

(2) This section does not prevent the regulatory authority's immediate reinstatement of a license when the regulatory authority determines the public health hazard or nuisance no longer exists.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.4129 Denial of license or registration; hearing; commencement; conduct.

Sec. 4129. (1) A license or registration applicant or holder may request a hearing regarding the regulatory authority's denial of a license or registration. A person desiring a hearing in response to a denial of a license or registration shall submit a hearing request to the regulatory authority within 30 calendar days after the date of the denial.

(2) The regulatory authority shall afford a hearing within 30 days after receiving a written request for a hearing as specified in this section when the request demonstrates that there is a genuine and material issue of fact that justifies that a hearing be held.

(3) Hearings shall be conducted in an expeditious and impartial manner.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

CHAPTER V PROHIBITED ACTS AND PENALTIES

***** 289.5101 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.5101.amended *****

289.5101 Prohibited acts; violation.

Sec. 5101. (1) A person shall not do or cause to be done any of the following:

(a) Manufacture, sell, deliver, hold, or offer for sale adulterated or misbranded food.

(b) Adulterate or misbrand food.

(c) Receive in commerce food that is adulterated or misbranded and deliver or proffer the delivery of that food for pay or otherwise.

(d) Sell, deliver for sale, hold for sale, or offer for sale food unless that person holds a license issued under chapter IV.

(e) Disseminate a false advertisement.

(f) Refuse to permit entry or inspection, or to permit the taking of a sample, as authorized by section 2111.

(g) Give a false guaranty or undertaking, except by a person who relied on a guaranty or undertaking to the same effect signed by and containing the name and address of the person from whom he or she received the food in good faith.

(h) Remove or dispose of seized or embargoed food in violation of section 2105.

(i) Alter, mutilate, destroy, obliterate, or remove all or part of the label or do any other act with respect to a food while the food is held for sale resulting in the food being adulterated or misbranded.

(j) Forge, counterfeit, simulate, or falsely represent, or without proper authority use any mark, stamp, tag, label, or other identification device authorized or required by this act or rules promulgated under this act.

(k) Permit filthy or insanitary conditions to exist in a food establishment in which food intended for human consumption is manufactured, received, kept, stored, served, sold, or offered for sale.

(l) Falsely identify a country, state, or other place of origin of food on a label, tag, or other document with intent to deceive or defraud.

(m) Fail to establish or maintain any record or make any report required under this act or the federal act, or refuse to permit access to or verification or copying of any such required record.

(n) Interfere with the director in the conduct of his or her responsibilities under this act.

(o) Make a false statement, representation, or certification in any application, report, plan, or other document that is required to be maintained under this act or rules promulgated under this act.

(p) Remove a tag, seal, or mark placed by the director.

(q) Operate without a license, registration, permit, or endorsement.

(r) Violate a provision of this act or a rule promulgated under this act.

(2) Each day a violation of this section occurs is a separate violation of this section.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.5101.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.5101.amended Prohibited acts; violation.

Sec. 5101. (1) A person shall not do or cause to be done any of the following:

(a) Manufacture, sell, deliver, hold, or offer for sale adulterated or misbranded food.

(b) Adulterate or misbrand food.

(c) Receive in commerce food that is adulterated or misbranded and deliver or proffer the delivery of that food for pay or otherwise.

(d) Sell, deliver for sale, hold for sale, or offer for sale food unless that person holds a license issued under chapter IV.

(e) Disseminate a false advertisement.

(f) Refuse to permit entry or evaluation, or to permit the taking of a sample, as authorized by section 2111.

(g) Give a false guaranty or undertaking, except by a person who relied on a guaranty or undertaking to the same effect signed by and containing the name and address of the person from whom he or she received the food in good faith.

(h) Remove or dispose of seized or embargoed food in violation of section 2105.

(i) Alter, mutilate, destroy, obliterate, or remove all or part of the label or do any other act with respect to a food while the food is held for sale resulting in the food being adulterated or misbranded.

(j) Forge, counterfeit, simulate, or falsely represent, or without proper authority use any mark, stamp, tag, label, or other identification device authorized or required by this act or rules promulgated under this act.

(k) Permit filthy or insanitary conditions to exist in a food establishment in which food intended for human consumption is manufactured, received, kept, stored, served, sold, or offered for sale.

(l) Falsely identify a country, state, or other place of origin of food on a label, tag, or other document with intent to deceive or defraud.

(m) Fail to establish or maintain any record or make any report required under this act or the federal act, or refuse to permit access to or verification or copying of any such required record.

(n) Interfere with the director in the conduct of his or her responsibilities under this act.

(o) Make a false statement, representation, or certification in any application, report, plan, or other

document that is required to be maintained under this act or rules promulgated under this act.

- (p) Remove a tag, seal, or mark placed by the director.
- (q) Operate without a license, registration, permit, or endorsement.
- (r) Violate a provision of this act or a rule promulgated under this act.
- (2) Each day a violation of this section occurs is a separate violation of this section.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 114, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.5103 Misleading labeling or advertisement; liability of disseminator of information.

Sec. 5103. (1) If a food is alleged to be misbranded because the labeling is misleading or if an advertisement is alleged to be false because it is misleading, then the determination of whether the labeling or advertisement is misleading shall take into account, among other things, not only representations made or suggested by statement, word, design, device, sound, or any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or fails to reveal facts material concerning consequences that may result from the use of that food under the conditions of use prescribed in the labeling or advertisement thereof or under such conditions of use as are customary or usual. A label, labeling, or advertising in compliance with the federal act is not considered a violation of this act.

(2) A publisher, radio-broadcast licensee, agency, or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, is not liable under this section for the dissemination of false advertisement unless he or she has refused to provide, upon request of the director, the name and post office address of the manufacturer, packer, distributor, seller, or advertising agency who caused the dissemination of the advertisement, or unless he or she has refused, upon the request of the director, to cease dissemination of the false advertisement.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.5105 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.5105.amended *****

289.5105 Administrative fines or costs.

Sec. 5105. (1) Upon finding that a person violated a provision of this act or rule promulgated under this act, the department may impose an administrative fine of not more than \$500.00 for the first offense and not more than \$1,000.00 for a second or subsequent offense and the actual costs of the investigation of the violation. Each day of any continuing violation is not considered a separate violation of this act or rule promulgated under this act. Under no circumstances shall the department impose upon any licensee or registrant administrative fines in the aggregate amount of more than \$4,000.00 per location for a firm with annual gross receipts of \$500,000.00 or less and \$8,000.00 per location for a firm with annual gross receipts of over \$500,000.00 during any 12-month period.

(2) Any administrative fines and costs collected under this section shall be paid to the state treasury and credited to the general fund.

(3) This section does not require the department to issue an administrative fine for minor violations of this act whenever the department believes that the public interest will be adequately served under the circumstances by a suitable written notice or warning.

(4) The conditions warranting administrative fines to achieve compliance with the provisions of the food code are limited to critical or repeated violations that remain uncorrected beyond the time frame for correction approved, directed, or ordered by the director under food code section 8-405.11(A) and (B) and section 8-406.11(A) and (B). The department shall not impose an administrative fine for a noncritical violation of the food code unless at least 30 calendar days have been allowed for correction after the inspection.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.5105.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.5105.amended Administrative fines or costs.

Sec. 5105. (1) Upon finding that a person violated a provision of this act or rule promulgated under this act, the department may impose an administrative fine of not more than \$500.00 for the first offense and not more than \$1,000.00 for a second or subsequent offense and the actual costs of the investigation of the violation. Each day of any continuing violation is not considered a separate violation of this act or rule promulgated under this act. Under no circumstances shall the department impose upon any licensee or registrant administrative fines in the aggregate amount of more than \$4,000.00 per location for a firm with annual gross receipts of \$500,000.00 or less and \$8,000.00 per location for a firm with annual gross receipts of over \$500,000.00 during any 12-month period.

(2) Any administrative fines and costs collected under this section shall be deposited into the dairy and food safety fund.

(3) This section does not require the department to issue an administrative fine for minor violations of this act whenever the department believes that the public interest will be adequately served under the circumstances by a suitable written notice or warning.

(4) The conditions warranting administrative fines to achieve compliance with the provisions of the food code are limited to critical or repeated violations that remain uncorrected beyond the time frame for correction approved, directed, or ordered by the director under food code section 8-405.11(A) and (B) and section 8-406.11(A) and (B). The department shall not impose an administrative fine for a noncritical violation of the food code unless at least 30 calendar days have been allowed for correction after the evaluation.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 114, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.5107 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.5107.amended *****

289.5107 Violations; penalties; costs of investigation.

Sec. 5107. (1) Except as otherwise provided under this act, a person who violates any provision of this act or rules promulgated under this act is guilty of a misdemeanor and shall be punished by a fine of not less than \$250.00 or more than \$2,500.00 or by imprisonment for not more than 90 days, or both.

(2) Notwithstanding the other provisions of this act, a person who knowingly violates section 5101(1)(b) or (f) is guilty of a felony punishable by imprisonment for not more than 4 years or by a fine of not more than \$10,000.00 plus twice the amount of any economic benefit associated with the violation, or both.

(3) If a violation results in a conviction under this act, the court shall assess against the defendant the costs of the department's investigation. The assessment for costs of investigation shall be paid to the state treasury and credited to the department for the enforcement of this act.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.5107.amended Violations; penalties; costs of investigation.

Sec. 5107. (1) Except as otherwise provided under this act, a person who violates any provision of this act or rules promulgated under this act is guilty of a misdemeanor and shall be punished by a fine of not less than \$250.00 or more than \$2,500.00 or by imprisonment for not more than 90 days, or both.

(2) Notwithstanding the other provisions of this act, a person who knowingly violates section 5101(1)(b) or (l) is guilty of a felony punishable by imprisonment for not more than 4 years or by a fine of not more than \$10,000.00 plus twice the amount of any economic benefit associated with the violation, or both.

(3) If a violation results in a conviction under this act, the court shall assess against the defendant the costs of the department's investigation. The assessment for costs of investigation shall be deposited into the dairy and food safety fund for the enforcement of this act.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 114, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.5109 Report of violation as condition.

Sec. 5109. When a violation of section 5101(1)(k) occurs which is not suspected of threatening the safety of food intended for human consumption, the department shall provide a person owning or operating the food establishment a written report of the violation before subjecting persons to the penalties provided in this act.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.5111 Jurisdiction of court; restraining order.

Sec. 5111. In addition to the remedies provided for in this act, the department may apply to the circuit court for, and the court shall have jurisdiction upon hearing and for cause shown, a temporary or permanent injunction restraining any person from violating any provision of this act or rules promulgated under this act irrespective of whether or not there exists an adequate remedy at law.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.5113 Application of remedies.

Sec. 5113. The regulatory authority shall justly apply the remedies according to law and this act consistent with the licensee's right to due process.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.5115 Decision or order; direct review.

Sec. 5115. When a license holder or registrant has exhausted all administrative remedies available under this act and is aggrieved by a final decision or order in a contested case, the decision or order is subject to direct review by the courts as provided by law.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

CHAPTER VI STANDARDS FOR FOOD ESTABLISHMENTS

***** 289.6101 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.6101.amended *****

289.6101 Incorporation by reference; changes or updates by rule; annexes.

Sec. 6101. (1) Chapters 1 through 8 of the food code are incorporated by reference except as amended and modified as follows:

(a) Section 3-401.11(B) is modified so that the oven temperature for high humidity oven temperature reads "54°C (130°F) or higher".

(b) Where provisions of this act and rules promulgated under this act specify different requirements.

(c) Section 3-201.11(D) is modified so that "subparagraph 3-401.11(C)(1)" reads "subparagraph 3-401.11(D)(1)".

(d) Section 6-101.11 is modified to add after subparagraph (A)(3): "(B) In a temporary food establishment:".

(2) The director, by promulgation of a rule, may adopt any changes or updates to the food code.

(3) The annexes of the food code are considered persuasive authority for interpretation of the food code.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2002, Act 487, Imd. Eff. June 27, 2002.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.6101.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.6101.amended Incorporation by reference; changes or updates by rule; annexes.

Sec. 6101. (1) Chapters 1 through 8 of the food code are incorporated by reference except as amended and modified as follows:

(a) Where provisions of this act and rules promulgated under this act specify different requirements.

(b) Section 3-501.16(A)(2) is modified so that "subparagraph 3-501.16(A)(2)(b)" is stricken.

(2) The director, by promulgation of a rule, may adopt any changes or updates to the food code.

(3) The annexes of the food code are considered persuasive authority for interpretation of the food code.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2002, Act 487, Imd. Eff. June 27, 2002;—Am. 2007, Act 114, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.6103 Plan review exemption.

Sec. 6103. (1) The following food establishments are exempt from the requirement for plan review and approval specified in section 8-201.11 of the food code:

(a) A temporary food establishment.

(b) A retail grocery.

(2) The plan review exemption for a retail grocery in subsection (1) does not apply to the operation of a food service establishment within a retail grocery. For purposes of this section, a deli within a retail grocery is not considered a food service establishment unless it provides seating for the customers.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.6105 Plans and specifications; transmittal letter; fees; rejection.

Sec. 6105. (1) A person seeking approval of plans and specifications for a food establishment shall submit a transmittal letter with the plans and specifications. The letter shall identify and summarize the plans or projects and shall indicate the owner, operator, or designated agent.

(2) An applicant shall submit any required fees, as authorized by section 2444 of the public health code, MCL 333.2444, or this act.

(3) The director may reject the plans for a proposed food establishment if any of the information required by the food code is not included, is incomplete, or is inaccurate.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.6107 Plans and specifications; review by director; revisions and modifications; approval; expiration; location.

Sec. 6107. (1) Upon receipt of plans and specifications, the director shall review the plans and specifications as soon as practicable to determine their completeness and adequacy. If a submission of complete plans and specifications is not reviewed within 30 business days of receipt, the plans and specifications will be considered complete and adequate. Thereafter, construction may proceed without the director's authorization. Approval of the plans and specifications by operation of law does not relieve the license applicant or license holder from compliance with other provisions of this act.

(2) If the director determines that plans and specifications are incomplete or inadequate, or both, he or she shall notify the license applicant or license holder in writing and shall request the submission of revised plans and specifications with appropriate corrections or additions. The director shall not approve the plans and specifications until he or she determines that the plans and specifications are complete and adequate and that the food establishment is designed in accordance with the food code and this act.

(3) Upon a determination by the director that the plans and specifications are complete and adequate, the director shall mark the plans and specifications showing approval and the date of approval, shall notify the license applicant or license holder in writing of the approval, and shall authorize construction, conversion, alteration, or remodeling of the food establishment.

(4) Approval of plans and specifications by the director and authorization for construction pursuant to the food code, this act, and rules promulgated under this act expire if construction, conversion, alteration, or remodeling has not commenced within 1 year from the date of approval or has been interrupted for 1 year or more since the date of approval. A license applicant or license holder may apply in writing to the director for an extension of the approval and construction authorization before the approval expires. The request for extension shall identify the project for which the approval and construction authorization were originally granted and the reason for requesting the extension. The director may require modification of the plans and specifications to incorporate updated food sanitation practices or requirements, where applicable, unless the license applicant or license holder has entered into binding agreements or contractual obligations which

cannot be canceled or modified without substantial loss to the license applicant or license holder as determined by the director.

(5) The approved plans and specifications shall be located on-site during construction and shall be available for inspection by the director.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.6109 Plans and specifications; conditions to approval.

Sec. 6109. The director may attach any condition to an approval of plans and specifications granted under section 6107 that he or she considers necessary to assure proper construction, conversion, alteration, or remodeling of a food establishment or portion of the food establishment.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.6111 Approved plans and specifications; submission of changes; as-built plans.

Sec. 6111. (1) A license applicant or license holder shall submit in writing to the director a change in approved plans and specifications. Written approval must be obtained before construction under the approved plans and specifications.

(2) Upon request of the director, a license applicant or license holder shall submit as-built plans, clearly showing the work as constructed.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.6113 Rescission of construction authorization.

Sec. 6113. (1) The director may rescind his or her authorization for construction, conversion, alteration, or remodeling of a food establishment if he or she determines that the license applicant or license holder is not undertaking construction in accordance with approved plans and specifications. The director shall notify the license applicant or license holder before rescission of construction authorization, advise him or her of required corrective action, and afford him or her the opportunity to take any required corrective action.

(2) The director shall order the license applicant or license holder in writing to cease construction, alteration, conversion, or remodeling activities if the applicant or license holder does any of the following:

(a) Fails to submit required plans and specifications for the construction, alteration, extensive remodeling, or conversion to use as a food establishment.

(b) Fails to construct, alter, extensively remodel, or convert a food establishment in accordance with plans and specifications approved by the director.

(c) Fails to take corrective action as required pursuant to this section.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.”

333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.6115 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.6115.amended *****

289.6115 Preopening inspection.

Sec. 6115. (1) After completion of the construction, alteration, conversion, or remodeling and before the opening of a food service establishment, the license applicant or license holder shall notify the director of the completion, shall submit an application for a license to operate the food service establishment, and shall arrange for a preopening inspection.

(2) During the preopening inspection, the director shall determine whether the food establishment was constructed, altered, converted, or remodeled in accordance with the approved plans and specifications.

(3) Local health departments may specify when requests for preopening inspections are to be submitted.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.6115.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.6115.amended Preopening evaluation.

Sec. 6115. (1) After completion of the construction, alteration, conversion, or remodeling and before the opening of a food service establishment, the license applicant or license holder shall notify the director of the completion, shall submit an application for a license to operate the food service establishment, and shall arrange for a preopening evaluation.

(2) During the preopening evaluation, the director shall determine whether the food establishment was constructed, altered, converted, or remodeled in accordance with the approved plans and specifications.

(3) Local health departments may specify when requests for preopening inspections are to be submitted.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 114, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.6117 Exhaust ventilation; design, construction, and installation.

Sec. 6117. Exhaust ventilation shall be designed, constructed, and installed in compliance with applicable state law.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.6119 Repealed. 2002, Act 487, Imd. Eff. June 27, 2002.

Compiler's note: The repealed section pertained to ventilation balance report.

289.6121 Repealed. 2002, Act 487, Imd. Eff. June 27, 2002.

Compiler's note: The repealed section pertained to ventilation test and operating temperature.

289.6123 Repealed. 2002, Act 487, Imd. Eff. June 27, 2002.

Compiler's note: The repealed section pertained to ventilation system and smoke test.

289.6125 Ice bins and machines; connection with waste line.

Sec. 6125. The waste line from ice storage bins and ice machines shall not be directly connected with another waste line and shall be drained through an air gap.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.6127 Smoking; prohibition; limitation; violation.

Sec. 6127. (1) The owner or operator of a food establishment primarily engaged in the retail sale of cold or room temperature food for home consumption under this act shall not permit the smoking or burning of tobacco on the premises.

(2) A sign indicating that smoking is prohibited in the retail food establishment shall be posted at each public entrance to the facility.

(3) An establishment regulated under subsection (1) may have a designated smoking area for employees and the public. A designated employee and public smoking area shall be isolated from the retail food area.

(4) An owner or operator who conspicuously posts signs pursuant to subsection (2) is not liable for a violation of subsection (1).

(5) A person, except employees or members of the general public who smoke in a designated smoking area established pursuant to subsection (3), shall not smoke or burn tobacco in a retail food establishment regulated under subsection (1). A person who violates this section is guilty of a misdemeanor punishable by a fine not to exceed \$100.00.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.6129 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.6129.amended *****

289.6129 Inspection report; critical violations; correction; follow-up inspection.

Sec. 6129. (1) The completed inspection report shall specify a period of time for correction of noted violations. The license holder shall correct the violations within the time specified in the report.

(2) All violations which are marked as critical on the inspection report form shall be corrected immediately unless otherwise specified. The director shall conduct a follow-up inspection to confirm corrections.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.6129.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.6129.amended Consideration of risk-based evaluation methodology; evaluation report; critical violations; correction.

Sec. 6129. (1) The director shall consider the risk-based evaluation methodology as described in food code annex 5, section 4 A-H for conducting evaluations of food establishments.

Rendered Wednesday, March 12, 2008

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(2) The completed evaluation report shall specify a period of time for correction of noted violations. The license holder shall correct the violations within the time specified in the report.

(3) All violations which are marked as critical on the inspection report form shall be corrected immediately unless otherwise specified. The director shall confirm corrections within 30 days after the report is issued.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 114, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.6131 Mobile units with retention tanks; sanitary disposal of liquid waste.

Sec. 6131. (1) Each commissary where mobile units with retention tanks are serviced shall provide for the sanitary disposal of liquid waste.

(2) The local health department shall approve locations for the sanitary disposal of liquid waste.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.6133 Mobile food establishment operating at fixed location; temporary license.

Sec. 6133. The director may license as a temporary food service establishment a mobile food establishment which does not return to a commissary or service base after 24 hours but continues to operate at a fixed location.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.6135 Mobile food establishment; affixing name and address to vehicle; carrying copy of limitations; route schedule; decals.

Sec. 6135. (1) The name and address of the business operating a mobile food establishment shall be affixed to each side of the exterior of the vehicle in letters not less than 3 inches high and 3/8 of an inch wide and shall be in contrast to the vehicle background color. When more than 1 mobile food service establishment is operated by the same person, the director shall assign a number to each establishment.

(2) A copy of limitations attached to the license of a mobile food service establishment shall be carried on the mobile food service establishment at all times.

(3) If a mobile food establishment is operating on a regularly scheduled route, the local health department having jurisdiction may require the license holder to provide a copy of the route schedule at the time the license is approved and every time the route schedule is changed.

(4) A representative of the local health department or the operator in the presence of the representative of the local health department shall affix 2 decals provided by the department on the mobile food establishment at the time the license is issued. The decals shall be conspicuously displayed on each side of the mobile food establishment so as to be visible when in transit and while serving the public.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.”

333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.6137 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.6137.amended *****

289.6137 Special transitory food unit license; procedures; qualifications; noncompliance.

Sec. 6137. (1) To qualify for a special transitory food unit license, an applicant shall allow a review and receive approval of plans and specifications as specified in chapter VI. This review and approval must include the menu and standard operating procedures for the unit.

(2) A special transitory food unit license holder shall do all of the following:

(a) Keep a copy of the approved standard operating procedures in the unit and available for review upon inspection by the director.

(b) Operate in compliance with standard operation procedures approved by the director.

(c) Before serving food within the jurisdiction of a local health department, notify the local health department in writing of each location in the jurisdiction at which food will be served and the dates and hours of service. The license holder shall mail the notice by first-class mail or deliver the notice not less than 4 business days before any food is served or prepared for serving within the jurisdiction of the local health department.

(d) While in operation, request and receive 2 inspections per licensing year. A local health department and the department shall charge a fee of \$90.00 for such an inspection.

(e) Send a copy of all inspections reports to the regulatory authority that approved the license within 30 days after receipt.

(3) If a license holder fails to comply with any of the requirements of this section or the food code, the food establishment is ineligible for licensure as a special transitory temporary food establishment for the following licensing year and must apply for temporary or other type of food establishment licenses.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.6137.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.6137.amended Special transitory food unit license; procedures; qualifications; noncompliance.

Sec. 6137. (1) To qualify for a special transitory food unit license, an applicant shall allow a review and receive approval of plans and specifications as specified in chapter VI. This review and approval must include the menu and standard operating procedures for the unit.

(2) A special transitory food unit license holder shall do all of the following:

(a) Keep a copy of the approved standard operating procedures in the unit and available for review upon evaluation by the director.

(b) Operate in compliance with standard operation procedures approved by the director.

(c) Before serving food within the jurisdiction of a local health department, notify the local health department in writing of each location in the jurisdiction at which food will be served and the dates and hours of service. The license holder shall mail the notice by first-class mail or deliver the notice not less than 4 business days before any food is served or prepared for serving within the jurisdiction of the local health department.

(d) While in operation, request and receive 2 evaluations per licensing year spaced generally over the span of the operating season. A local health department and the department shall charge a fee of \$90.00 for such an evaluation.

(e) Send a copy of all evaluation reports to the regulatory authority that approved the license within 30 days after receipt.

(3) If a license holder fails to comply with any of the requirements of this section or the food code, the food establishment is ineligible for licensure as a special transitory temporary food establishment for the following licensing year and must apply for temporary or other type of food establishment licenses.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 114, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.6139 Sulfiting agents; prohibition.

Sec. 6139. A food service establishment shall not store on the premises or apply to any food prepared in the food service establishment sulfiting agents.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.6140.added THIS ADDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.6140.added Milk and milk products.

Sec. 6140. (1) Only pasteurized ingredients from a department-approved source shall be used for milk and milk products manufactured, sold, served, or prepared at a retail food establishment. Such ingredients include, but are not limited to, milk, milk solids, whey, nonfat dry milk, condensed milk, cream, skim milk, eggs, and egg products.

(2) Ingredients that may be subsequently added to milk or milk products are those flavorings or other ingredients that have been found to be safe and suitable and added in a manner to prevent contamination, including, but not limited to, the following:

(a) Ingredients permitted by a standard of identity for milk or milk products under the federal act or regulations.

(b) Fresh fruits and vegetables added to cultured milk and cultured milk products provided the resultant equilibrium pH level (4.6 or below when measured at 24 degrees Celsius (75 degrees Fahrenheit)) of the finished product is reached without undue delay and is maintained during the shelf life of the product.

(c) Ingredients subjected to prior heating sufficient to destroy pathogenic microorganisms such as roasted nuts or dried fruits.

(d) Ingredients having a water activity (A_w) value of 0.85 or less.

(e) Ingredients having a high acid content (pH level of 4.6 or below when measured at 24 degrees Celsius (75 degrees Fahrenheit)) or high alkalinity (pH level greater than 11 when measured at 24 degrees Celsius (75 degrees Fahrenheit)).

(f) Dry sugars and salts.

(g) Flavor extracts having a high alcohol content.

(h) Safe and suitable bacterial cultures and enzymes.

(i) Other ingredients that have been found to be safe and suitable by the U.S. food and drug administration.

(3) Retail food establishments that manufacture and wholesale milk and milk products must additionally be licensed pursuant to and meet requirements of the manufacturing milk law, 2001 PA 267, MCL 288.561 to 288.740, or the grade A milk law, 2001 PA 266, MCL 288.471 to 288.540.

History: Add. 2007, Act 114, Eff. Apr. 1, 2008.

289.6141 Antichoking techniques; display of poster.

Sec. 6141. (1) A food service establishment in which solid foods are sold and consumed on the premises shall prominently display a poster in the kitchen area of the food service establishment diagramming and explaining the antichoking techniques safe for both adults and children approved by the department for dislodging foreign obstacles caught in the throat of a choking person.

(2) This section does not impose a duty upon the owners or employees of a food service establishment to apply antichoking techniques.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.6143 Preparation or service of wild game by nonprofit organization; requirements.

Sec. 6143. (1) A charitable, religious, fraternal, or other nonprofit organization that prepares or serves wild game in connection with its meetings or as part of a fund-raising event or that prepares or serves wild game to indigent persons free of charge is not required to obtain the wild game from a department-approved source.

(2) If a charitable, religious, fraternal, or other nonprofit organization prepares or serves wild game that is not from a department-approved source in connection with its meetings or a part of a fund-raising event or prepares or serves wild game that is not from a department-approved source to indigent persons free of charge, the organization shall post at the entrance to the dining area a sign bearing the following message: "The wild game served at this facility has not been subject to state or federal inspection." The words of the message shall be written or printed in letters not less than 3/4 of an inch high and 3/4 of an inch wide and readable.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.6145 Repealed. 2002, Act 487, Imd. Eff. June 27, 2002.

Compiler's note: The repealed section pertained to frozen dessert standards.

***** 289.6147 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.6147.amended *****

289.6147 Disaster; cessation of service; report; evaluation.

Sec. 6147. If a food service establishment is affected by fire, flooding, accidents, explosions, or other disaster that may create an imminent or substantial hazard, all food service operations shall cease. The licensee shall immediately report the disaster to the local health department and request an evaluation of the food service establishment to determine the effect of the disaster on the operation of the establishment.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.6147.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.6147.amended Disaster; cessation of operations; report; emergency plans as temporary alternative procedures.

Sec. 6147. If a food establishment is affected by fire, flooding, accidents, explosions, or other disaster that may create an imminent or substantial hazard and unless otherwise directed, all food operations shall cease and the licensee shall immediately report to the director the disaster and the effect of the disaster on the operation of the establishment. The department may recognize emergency plans that, if being followed, serve as a means to use temporary alternative procedures for continuity of operation.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 114, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.6149 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.6149.amended *****

289.6149 Definitions; satisfaction of section 3-603.11 of food code; disclosures; reminders; text; exemptions.

Sec. 6149. (1) As used in this section:

(a) “Disclosure” means a written identification as to which items are, or can be, ordered raw or undercooked in their entirety, or items that contain an ingredient that is raw or undercooked.

(b) “Publicly available” means accessible to consumers, without their having to request it, before their placing their food orders or making their selections.

(c) “Reminder” means a written notice concerning the significant health risk of consuming raw or undercooked animal foods.

(d) “Selection information” means whatever consumers read to make their order selections, such as menu, table tent, placard, chalkboard, or other written means.

(2) To satisfy section 3-603.11 of the food code, the food establishment must meet the prescriptions of this section.

(3) The food establishment shall make a disclosure in the selection information that an item contains raw or undercooked food of animal origin by either or both of the following methods:

(a) Items are described to include the disclosure, such as “oysters on the half shell (raw oysters)”, “raw-egg caesar salad”, “eggs (may be requested undercooked)”, and “hamburgers (can be cooked to order)”. The disclosure is not limited to those items and descriptions in this subdivision but includes items and descriptions of a similar nature.

(b) Items are asterisked with a footnote that states the items are served raw or undercooked, contain, or may contain raw or undercooked ingredients.

(4) A reminder of the significantly increased risk associated with eating foods subject to the disclosure in raw or undercooked form is satisfied by 1 of the following methods:

(a) Items requiring disclosure are asterisked on the selection information to a footnote that states 1 of the following disclosures:

(i) “Regarding the safety of these items, written information is available on request.”.

(ii) “Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness.”.

(iii) “Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions.”.

(b) Either of the reminders listed under subdivision (a)(ii) or (iii) is used and appears at least once in the selection information on the first interior page or the page where the first item requiring disclosure appears. When the option described in this subdivision is used, the word “NOTICE” shall appear before the reminder statement.

(c) A publicly available placard supplies the reminder of the significantly increased risk and meets the following requirements:

(i) It is titled “NOTICE” and contains 1 of the reminders listed in subdivision (a)(ii) or (iii).

(ii) It is posted near the customer entrances of the establishment and is clearly visible to the customers.

(iii) All letters in the title are capitalized in bold, arial font not less than 44-point font size and, if menu items are on the placard, then all letters are equally readable as the menu items on the placard.

(iv) All letters in the reminder are arial font not less than 36-point font size.

(v) The reminder is placed at approximately eye level and is easily readable from the point at which consumers would normally stand to read it.

(vi) The reminder maintains visibility in layout, format, and graphics in contrast to other posted materials.

(d) The United States food and drug administration model consumer advisory brochure or equivalent as determined by the director is publicly available.

(5) A reminder may be tailored to be product specific if a food establishment either has a limited menu or offers only specific animal-derived foods in raw or undercooked, ready-to-eat form.

(6) The language for the menu items shall match the language used for the disclosure and the reminder. The disclosure and reminder may also be in additional languages.

(7) The text for disclosures and reminders shall meet the following requirements:

(a) The text size for statements on handheld menus or table tents shall be visually equivalent to at least 11-point font size or may be visually equivalent to the font size of menu item descriptions.

(b) Text color provides a clear contrast to background.

(8) Table tents, placards, or chalkboards that are used exclusively to list food items that are offered as daily, weekly, or temporary specials are exempt from the requirements of this section when those food items also appear in the primary selection information that contains the disclosures and reminders meeting the requirements of this section.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2002, Act 487, Imd. Eff. June 27, 2002.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.6149.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.6149.amended Definitions; satisfaction of section 3-603.11 of food code; statement; disclosures and reminders; text; exemptions.

Sec. 6149. (1) As used in this section:

(a) "Publicly available" means accessible to consumers, without their having to request it, before their placing food orders or making their selections.

(b) "Selection information" means whatever consumers read to make their order selections, such as menu, table tent, placard, chalkboard, or other written means.

(2) To satisfy section 3-603.11 of the food code, the food establishment may provide the following statement on selection information so that it is publicly available: "Ask your server about menu items that are cooked to order or served raw. Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness."

(3) A statement used under subsection (2) may be tailored to be product specific if a food establishment either has a limited menu or offers only specific animal-derived foods in raw or undercooked, ready-to-eat form.

(4) The language for the menu items shall match the language used for the disclosure and the reminder. The disclosure and reminder may also be in additional languages.

(5) The text for disclosures and reminders shall meet the following requirements:

(a) The text size for statements on handheld menus or table tents shall be visually equivalent to at least 11-point font size or may be visually equivalent to the font size of menu item descriptions.

(b) Text color provides a clear contrast to background.

(6) Table tents, placards, or chalkboards that are used exclusively to list food items that are offered as daily, weekly, or temporary specials are exempt from the requirements of this section when those food items also appear in the primary selection information that contains the disclosures and reminders meeting the requirements of this section.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2002, Act 487, Imd. Eff. June 27, 2002;—Am. 2007, Act 114, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.6150.added THIS ADDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.6150.added Definitions; presence or lack of artificial trans fat; statement; language.

Sec. 6150. (1) As used in this section:

(a) "Artificial trans fat" means an unsaturated fat or fatty acid that is produced by the partial hydrogenation of plant oils and that contains 1 or more instances of atoms bonded in a trans configuration.

(b) "Publicly available" means accessible to consumers, without their having to request it, before placing

their food orders or making their selections.

(c) "Selection information" means whatever consumers read to make their order selections, such as a menu, table tent, placard, chalkboard, or other written means.

(2) A food service establishment may, but is not required to, provide on the selection information, so that it is publicly available, a statement regarding the presence or lack of artificial trans fat in any food served by the food service establishment.

(3) A statement described in subsection (2) may be tailored to be product-specific if a food service establishment has a limited menu.

(4) The text for a statement described in subsection (2) may be in more than 1 language and may meet the requirements of section 6149.

History: Add. 2007, Act 114, Eff. Apr. 1, 2008.

***** 289.6151 THIS SECTION IS REPEALED BY ACT 113 OF 2007 EFFECTIVE APRIL 1, 2008 *****

289.6151 Alternative practices and procedures; training; monitoring; review; identification; documentation; modification or suspension.

Sec. 6151. (1) Prior to a license holder implementing alternative practices and procedures to section 3-301.11(B) of the food code, the license holder shall do all of the following:

(a) Evaluate alternatives to bare-hand contact and determine them to be impractical.

(b) Meet the critical requirements of the food code that are necessary for the implementation of alternatives to section 3-301.11(B) of the food code as allowed under this section.

(c) Implement a documented food safety training program for all employees having bare-hand contact with ready-to-eat foods.

(2) The training program shall include, but not be limited to, the following areas:

(a) Proper hand washing practices and procedures including the potential problems that exist with unsanitary hand washing practices.

(b) Hygienic food practices and safe food preparation.

(c) The importance of not working when ill with any symptoms of foodborne illness.

(3) Training described under this section shall be given to new employees and periodic refresher training shall be given to any employee having bare-hand contact with ready-to-eat foods. The license holder shall document the training program.

(4) The license holder shall also implement a documented plan to periodically monitor employees to ensure that the practices and procedures established under this section are being followed and list the corrective actions that will be taken if employees are not following the practices and procedures established under this section.

(5) A license holder implementing alternative procedures and practices under this section shall periodically review its operations, verify the effectiveness of the alternative practices and procedures, and monitor when ready-to-eat foods are handled by its employees.

(6) Upon the request of the director, the license holder shall identify any ready-to-eat foods that will be contacted with bare hands, as well as the specific location and method for preparation.

(7) Documentation required under subsections (1)(c), (3), and (4) shall be readily available at the retail food establishment for use by the person in charge and review by the director.

(8) The documentation required under subsections (1)(c), (3), and (4) is not required to be approved by the director prior to implementation of alternatives to section 3-301.11(B) of the food code.

(9) The department shall provide guidance to retail food establishments on the documentation of alternatives to section 3-301.11(B) of the food code as required under this section.

(10) The department may require the modifications or suspension of existing alternative practices and procedures implemented under this section if the department determines that there is a threat to public health.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

CHAPTER VII
FOOD AND PROCESSING STANDARDS

289.7101 Compliance with federal regulations; exception.

Sec. 7101. Subject to section 1119(2), a food processing plant shall comply with the regulations of the food and drug administration in 21 C.F.R. part 110, except that refrigerated potentially hazardous food shall be stored at 4.4 degrees centigrade (40 degrees Fahrenheit) or below.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2002, Act 487, Imd. Eff. June 27, 2002.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.7103 Processing low-acid foods; requirements.

Sec. 7103. (1) All thermally processed, low-acid foods that are packaged in hermetically sealed containers shall be processed in a licensed commercial food establishment.

(2) All processors of acidified, low-acid foods packaged in hermetically sealed containers shall comply with the regulations of the U.S. food and drug administration in 21 C.F.R. part 114.

(3) All thermally processed, low-acid foods that are packaged in hermetically sealed containers shall comply with the regulations of the U.S. food and drug administration in 21 C.F.R. part 113.

(4) Hermetically sealed packages shall be handled to maintain product and container integrity.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.7105 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.7105.amended *****

289.7105 Processor of smoked fish; variance; waiver.

Sec. 7105. The requirement that a processor of smoked fish obtain a variance under the smoked fish rules is waived if the processor demonstrates compliance with 21 C.F.R. part 123, the “seafood HACCP plan”.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.7105.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.7105.amended Processor of seafood; waiver for processor of smoked fish.

Sec. 7105. All processors of seafood shall comply with regulations of the U.S. food and drug administration in 21 CFR part 123. The requirement that a processor of smoked fish comply with the smoked fish rules is waived if the processor demonstrates compliance with the federal regulation described in this section.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 114, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906,

333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.7106.added THIS ADDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.7106.added Processors of juice; safe cider production.

Sec. 7106. (1) All processors of juice shall comply with the regulations of the U.S. food and drug administration in 21 CFR part 120.

(2) An establishment that presses apple cider shall have at least 1 active employee currently certified under a program described in section 2129 or having completed a current course recognized by the department as pertinent to safe cider production.

History: Add. 2007, Act 114, Eff. Apr. 1, 2008.

289.7107 Bottled water; approval of source and water supply; maximum levels of substances; labeling of water dispensing machine.

Sec. 7107. (1) Bottled water shall be obtained from a water supply approved by the department of environmental quality and in compliance with the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023.

(2) A copy of the current sanitary survey report from the department of environmental quality under the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023, and the water sample results required under that act shall be available at the bottling plant for the director to demonstrate approval of the source and supply of the water.

(3) Bottled water shall not contain any substance in excess of the maximum contaminant level adopted for drinking water under the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023.

(4) A water dispensing machine shall be clearly and conspicuously labeled with the declaration of identity of the product dispensed.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.7109 Operation of bottled water plant or bottle water; compliance with federal regulations.

Sec. 7109. A person shall not operate a bottled water plant or bottle water for the purpose of sale or distribution in this state without first demonstrating to the department that the source, bottling facility, treatment and bottling practices comply with 21 C.F.R. part 129, and product water meets the requirements of this chapter.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.7111 Packaged food; compliance with federal regulations.

Sec. 7111. Packaged food shall comply with standard of identity requirements in 21 C.F.R. parts 131 to 169 and the definitions and standards of identity or composition contained in 9 C.F.R. part 319, and the general requirements in 21 C.F.R. part 130 and subpart A of part 319 of title 9 of the Code of Federal Regulations except as modified or rejected by this act or rules promulgated under this act.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a

food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.7113 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.7113.amended *****

289.7113 Definitions.

Sec. 7113. As used in this chapter:

(a) “Added fat” means the addition of fat tissue originating from portions consisting of less than 12% muscle tissue in each portion.

(b) “Added water or ice” means greater moisture content than normally found in meat.

(c) “Artificial coloring” means coloring containing any dye or pigment which was manufactured by a process of synthesis or other similar artifice or by extraction of a natural dye or pigment from a plant or other material from which the dye or pigment was formed.

(d) “Artificial flavoring” means any flavoring containing any sapid or aromatic constituent manufactured by synthesis or similar process.

(e) “Binders” means food and nonfood substances used as an ingredient in comminuted meats for binding, stabilizing, thickening, or maintaining viscosity of the product.

(f) “By-products or variety meats” means hearts, livers, brains, tongues, tripe, stomach, lungs, melts, eyes, weasand meats, head meat, cheek meat, salivary glands, udder, lips, ears, snouts, skin, feet, spleens, slaughterhouse by-products, spinal cords, cracklings or crackling meal, packinghouse by-products, processing plant by-products, partially defatted fatty tissues, and partially defatted chopped meat.

(g) “Comminuted” means chopped, diced, flaked, ground, or otherwise reduced to minute particles.

(h) “Extenders” means food substances used as an ingredient in comminuted meats primarily for replacement of meat ingredients.

(i) “Fat” means the quantity of adipose tissue determined by chemical analysis.

(j) “Fresh meat” means meat that has undergone no cooking, heating, or other processing except boning, cutting, comminuting, or freezing.

(k) “Lamb” means meat derived from sheep less than 1 year of age.

(l) “Meat” means the edible part of clean, sound striated muscle of cattle, swine, sheep, deer, goat, turkey, or chicken slaughtered in compliance with all applicable laws, with or without the accompanying and overlying fat, and sinew, nerve, gland, and blood vessels which normally accompany the muscle tissues and which are not separated from it in the process of dressing.

(m) “Skeletal meat” means the meat that is attached to a part of the skeleton including head and cheek meat.

(n) “Veal” means meat derived from a calf not more than 1 year of age.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.7113.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.7113.amended Definitions.

Sec. 7113. As used in this chapter:

(a) “Added fat” means the addition of fat tissue originating from portions consisting of less than 12% muscle tissue in each portion.

(b) “Added water” means greater moisture content than normally found in meat and, except for poultry, is determined by total moisture minus 4 times the percentage of protein. Added water may be in the form of water or ice.

(c) “Artificial coloring” means coloring containing any dye or pigment which was manufactured by a process of synthesis or other similar artifice or by extraction of a natural dye or pigment from a plant or other material from which the dye or pigment was formed.

(d) “Artificial flavoring” means any flavoring containing any sapid or aromatic constituent manufactured

by synthesis or similar process.

(e) "Binders" means food and nonfood substances used as an ingredient in comminuted meats for binding, stabilizing, thickening, or maintaining viscosity of the product.

(f) "By-products or variety meats" means hearts, livers, brains, tongues, tripe, stomach, lungs, melts, eyes, weasand meats, head meat, cheek meat, salivary glands, udder, lips, ears, snouts, skin, feet, spleens, slaughterhouse by-products, spinal cords, cracklings or crackling meal, packinghouse by-products, processing plant by-products, partially defatted fatty tissues, and partially defatted chopped meat.

(g) "Comminuted" means chopped, diced, flaked, ground, or otherwise reduced to minute particles.

(h) "Extenders" means food substances used as an ingredient in comminuted meats primarily for replacement of meat ingredients.

(i) "Fat" means the quantity of adipose tissue determined by chemical analysis.

(j) "Fresh meat" means meat that has undergone no cooking, heating, or other processing except boning, cutting, comminuting, or freezing.

(k) "Lamb" means meat derived from sheep less than 1 year of age.

(l) "Meat" means the edible part of clean, sound striated muscle of cattle, swine, sheep, deer and other cervids, goat, turkey, duck, ratite, or chicken slaughtered in compliance with all applicable laws, with or without the accompanying and overlying fat, and sinew, nerve, gland, and blood vessels which normally accompany the muscle tissues and which are not separated from it in the process of dressing. Meat does not include specified risk materials.

(m) "Skeletal meat" means the meat that is attached to a part of the skeleton including head and cheek meat.

(n) "Specified risk materials" means items associated with the nervous system of beef cattle that are prohibited from human food as defined in 9 CFR 310.22.

(o) "Veal" means meat derived from a calf not more than 1 year of age.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 114, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.7115 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.7115.amended *****

289.7115 Sausage; contents.

Sec. 7115. Sausage consists only of skeletal meat either fresh, cured, salted, pickled, or smoked. Sausage may contain the following:

(a) Salt or spice, sodium or potassium nitrate, sodium or potassium nitrite, or ascorbic acid that comply with applicable regulations of the United States department of agriculture food safety inspection service or any other curing agents determined appropriate by the department pursuant to rules promulgated under this act. As used in this subdivision, "curing agent" means any substance added to meat to cause or enhance preservation of the meat product.

(b) Added edible animal fat from the animals specified, eggs or egg products, chives, tomatoes, parsley, peppers, onions, garlic, celery, seasoning, or other natural flavoring, honey, syrup, sugar, pure refined dextrose, or subsequent cooking or smoking.

(c) Not more than 3-1/2% by weight nonfat dry milk, dry whole milk, or calcium-reduced milk if it is declared in conjunction with the product name.

(d) Fruits, vegetables, or nuts, or a combination thereof, if the name of the product is so qualified.

(e) The total percentage of moisture in the finished product shall not exceed 4 times the percentage of protein, which shall not be less than 12%. The protein content requirement shall not apply to pork sausage, breakfast sausage, or roasted sausage but the finished product shall contain not more than 50% of fat. To facilitate chopping or mixing, water or ice may be used in uncooked sausage in an amount not to exceed 3% of the total ingredients.

(f) Fresh and fresh frozen sausage, smoked and unsmoked dry sausage, may contain butylated hydroxyanisole, butylated hydroxytoluene or propyl gallate, or a combination of these antioxidants, with or without citric acid, in amounts not to exceed specifications established under 9 C.F.R. 318.7 and 9 C.F.R. part 319. When such antioxidants are added, the label on the product shall declare the presence of antioxidants in

the manner required by the United States department of agriculture meat inspection service.

(g) Sausage shall not contain any extenders, artificial flavors, artificial color, binders, excess added water or ice, boric acid or borates, sulphites, sulfur dioxide, sulphurous acid, or any other harmful preservative, by-products, or variety meats. Extenders necessary to produce low-fat products may be permitted as described in rules promulgated under this act. No other parts of the animal or any other substance excepting as above specified shall be permitted in sausage.

(h) Harmless lactic acid bacterial starters may be used in an amount not to exceed 1/2 of 1%. When used, the harmless bacterial starter shall be included in the list of ingredients in the order of its predominance.

(i) The following products are considered to be sausage, whether processed or inserted in either natural or artificial casings or other containers: wieners, bologna, ring bologna, knackwurst, bratwurst, roasted sausage, breakfast sausage, pork sausage, chicken sausage, turkey sausage, leona, beer salami, cooked salami, Polish sausage, minced luncheon, kielbasa, bockwurst, all varieties of dry or semi-dry sausage, and other meat food products prepared in sausage form and excluding loaves, liver products, headcheese, sulze, blood sausage, potato sausage, kishka, tongue sausage, and New York or New England pressed luncheon.

(j) "Fresh pork sausage", "Polish sausage", "fresh kielbasa", and "fresh country-style sausage" are sausages prepared from fresh pork meat.

(k) "Italian-style sausage" shall be uncured, unsmoked, and contain at least 85% meat or meat and fat with no more than 35% fat. It may contain red and green pepper, onion, and garlic. Italian sausage shall be prepared from fresh pork meat.

(l) "Fresh beef sausage" is prepared with fresh beef meat and shall not contain more than 30% fat.

(m) "Poultry-meat sausage" shall be made from fresh chicken and turkey meat containing the natural proportions of light and dark meat unless otherwise designated. The name shall be identified by the species contained if the product contains all its meat from 1 species. It shall not contain more than 30% fat.

(n) "Venison sausage" shall be made from the meat of deer from approved sources. A person shall not offer for sale, sell, or expose for sale any other product described as venison sausage. Fat of another species and approved source may be added to venison sausage.

(o) Sausage containing wild game and made on commercial order shall be labeled "not for sale". Wild game from more than 1 owner shall not be mixed into sausage unless a licensed processor butchered all the wild game. Processors shall reject any carcass that shows evidence of spoilage or contamination. Wild game and wild-game product and processing times shall be kept separate from other meat and meat processing, including, but not limited to, storage in separate or structurally-partitioned coolers. Food contact surfaces shall be thoroughly washed and sanitized after the processing of wild game and before the resumption of any other processing.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.7115.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.7115.amended Sausage; contents; definitions.

Sec. 7115. Sausage consists only of skeletal meat either fresh, cured, salted, pickled, or smoked. Poultry sausage may contain accompanying skin in natural proportions. Sausage may contain the following:

(a) Salt or spice, cure agents such as sodium or potassium nitrate or sodium or potassium nitrite, cure accelerators such as sodium erythorbate or ascorbic acid, all that comply with applicable regulations of the United States department of agriculture food safety inspection service or any other curing agents determined appropriate by the department or pursuant to rules promulgated under this act. As used in this subdivision, "curing agent" or "curing accelerator" means any substance added to meat to cause or enhance preservation of the meat product.

(b) Added edible animal fat from the animals specified, eggs or egg products, chives, tomatoes, parsley, peppers, onions, garlic, celery, seasoning, or other natural flavoring, honey, syrup, sugar, pure refined dextrose, or subsequent cooking or smoking.

(c) Not more than 3-1/2% by weight nonfat dry milk, dry whole milk, or calcium-reduced milk if it is declared in conjunction with the product name.

(d) Fruits, vegetables, or nuts, or a combination thereof, if the name of the product is so qualified.

(e) Not less than 12% protein. The protein content requirement shall not apply to pork sausage, breakfast sausage, or roasted sausage but the finished product shall contain not more than 50% of fat. Fresh sausage shall contain no added water, except to facilitate chopping or mixing and in an amount not to exceed 3% of the total ingredients. Cooked sausage shall not exceed 40% fat and added water.

(f) Fresh and fresh frozen sausage, smoked and unsmoked dry sausage, may contain antioxidants such as butylated hydroxyanisole, butylated hydroxytoluene or propyl gallate, or a combination of these antioxidants, with or without citric acid, in amounts that comply with applicable regulations of the United States department of agriculture food safety inspection service. When such antioxidants are added, the label on the product shall declare the presence of antioxidants in the manner required by the United States department of agriculture food safety inspection service.

(g) Sausage shall not contain any extenders, artificial flavors, artificial color, binders, excess added water or ice, boric acid or borates, sulphites, sulfur dioxide, sulphurous acid, or any other harmful preservative, by-products, or variety meats. Extenders necessary to produce low-fat products may be permitted as described in rules promulgated under this act. No other parts of the animal or any other substance excepting as above specified shall be permitted in sausage.

(h) Harmless lactic acid bacterial starters may be used in an amount not to exceed 1/2 of 1%. When used, the harmless bacterial starter shall be included in the list of ingredients in the order of its predominance.

(i) The following products are considered to be sausage, whether processed or inserted in either natural or artificial casings or other containers: wieners, bologna, ring bologna, knackwurst, bratwurst, roasted sausage, breakfast sausage, pork sausage, chicken sausage, turkey sausage, leona, beer salami, cooked salami, Polish sausage, minced luncheon, kielbasa, bockwurst, all varieties of dry or semi-dry sausage, and other meat food products prepared in sausage form and excluding loaves, liver products, headcheese, sulze, blood sausage, potato sausage, kishka, tongue sausage, and New York or New England pressed luncheon.

(j) "Fresh pork sausage", "Polish sausage", "fresh kielbasa", and "fresh country-style sausage" are sausages prepared from fresh pork meat.

(k) "Italian-style sausage" shall be uncured, unsmoked, and contain at least 85% meat or meat and fat with no more than 35% fat. Italian sausage contains fennel or anise and may contain red and green pepper, onion, and garlic. Italian sausage shall be prepared from fresh pork meat.

(l) "Fresh beef sausage" is prepared with fresh beef meat and shall not contain more than 30% fat.

(m) "Poultry sausage or poultry-meat sausage" shall be made from fresh poultry meat containing the natural proportions of light and dark meat unless otherwise designated. The name shall be identified by the species contained if the product contains all its meat from 1 species. It shall not contain more than 30% fat. Poultry-meat sausage shall not contain skin.

(n) "Cervid sausage" shall be made from the meat of cervidae from approved sources. The name shall be identified by the species contained if the product contains all its meat from 1 species, such as "venison sausage" or "elk sausage". A person shall not offer for sale, sell, or expose for sale any other product described as cervid sausage. Fat of another species and approved source may be added to cervid sausage.

(o) Sausage containing wild game and made on commercial order shall be labeled "not for sale". Wild game from more than 1 owner shall not be mixed into sausage unless a licensed processor butchered all the wild game. Processors shall reject any carcass that shows evidence of spoilage or contamination. Wild game and wild-game product and processing times shall be kept separate from other meat and meat processing, including, but not limited to, storage in separate or structurally-partitioned coolers. Food contact surfaces shall be thoroughly washed and sanitized after the processing of wild game and before the resumption of any other processing.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 114, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.7117 Hamburger or ground beef; contents.

Sec. 7117. Hamburger or ground beef consists of fresh beef meat that has been comminuted and shall be identified as either hamburger or ground beef. Hamburger shall not contain more than 30% of fat. Ground beef shall meet the same requirements as hamburger except that it shall not contain more than 20% of fat.

Monosodium glutamate may be added if declared. Hamburger may contain added beef fat, but ground beef shall not contain added fat. Ground beef and hamburger shall not contain added water or ice. Only ground beef may be qualified by the name of a particular cut of meat, such as "ground beef round" or "ground beef chuck". If so qualified, it shall consist entirely of meat from the particular meat cut and be certified as that specific cut by a method of certification as the director may establish by rule. Hamburger or ground beef shall not contain by-products or variety meats, binders, extenders, artificial color, vegetable coloring, chemical preservative, boric acid or borates, sulphites, sulfur dioxide, or sulphurous acid. No other parts of the animal or any other substance except as otherwise provided in this subsection is permitted in hamburger or ground beef.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.7119 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.7119.amended *****

289.7119 Other comminuted meat food products; compliance with federal regulations.

Sec. 7119. Other comminuted meat food products, including nonspecific loaves and liver products, headcheese, blood sausage, kishka, tongue sausage, chili con carne with beans, or any other meat food products that may be allowed, shall be produced in compliance with applicable regulations of the United States department of agriculture meat inspection service.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.7119.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.7119.amended Other comminuted meat food products; compliance with federal regulations.

Sec. 7119. Other comminuted meat food products, including nonspecific loaves and liver products, headcheese, blood sausage, kishka, tongue sausage, chili con carne with beans, or any other meat food products that may be allowed, shall be produced in compliance with applicable regulations of the United States department of agriculture food safety inspection service.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 114, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.7121 Chili or chili con carne; contents.

Sec. 7121. Chili or chili con carne shall consist of not less than 40% of meat computed on the weight of the fresh meat and shall not contain by-products and variety meats except that head meat, cheek meat, and heart meat, exclusive of the heart cap, may be used to the extent of 25% of the meat ingredients with specific declaration on the label. The mixture may contain not more than 8%, individually or collectively, of cereal, vegetable starch, vegetable flour, soy flour, soy protein concentrate, isolated soy protein, dried milk, calcium reduced dry skim milk, nonfat dry milk solids, or seasoning. Chili con carne shall not contain binders, artificial color, vegetable coloring, chemical preservative, boric acid or borates, sulphites, sulfur dioxide, or

sulphurous acid. No other parts of the animal are permitted in chili con carne.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.7123 Meat loaf; contents.

Sec. 7123. Meat loaf consists of comminuted meat, processed in the form of a loaf, containing not less than 65% meat. Meat loaf mix consists of meat loaf sold in bulk uncooked form. Meat loaf may contain salt, seasoning, sodium or potassium nitrate, ascorbic acid, or the salts thereof, sodium or potassium nitrite, cereal vegetables, vegetable protein, nonfat dry milk solids, soy flour, eggs or egg products, macaroni, cheese, condiments, nuts, fruits, or gelatin. Binders and extenders shall not exceed 12% of the product. To facilitate chopping or mixing, water or ice may be used in an amount not to exceed 3% of the total ingredients. Meat loaf shall not contain by-products of variety meats, artificial flavors or color, vegetable coloring, chemical preservative, boric acid or borates, sulfur dioxide, sulphites, or sulphurous acid. No other substance is permitted in meat loaf or meat loaf mix, except as otherwise provided in this section.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.7125 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.7125.amended *****

289.7125 Ground lamb, chicken, turkey, and veal; contents.

Sec. 7125. Ground lamb, chicken, turkey, and veal shall not contain any added water or ice, artificial flavoring, by-products or variety meats, binders, extenders, artificial color, vegetable coloring, or chemical preservatives. No other parts of the animal or any other substance shall be permitted except as follows:

(a) Ground lamb shall consist of comminuted fresh lamb meat, with or without added lamb fat, and shall not contain more than 25% fat.

(b) Ground chicken shall consist of comminuted fresh chicken meat, with or without added chicken fat, and shall not contain more than 15% fat.

(c) Ground turkey shall consist of comminuted fresh turkey meat, with or without added turkey fat, and shall not contain more than 15% fat.

(d) Ground veal shall consist of comminuted fresh veal meat, with or without added veal fat, and shall not contain more than 20% fat.

(e) Ground pork shall consist of comminuted fresh pork with or without the addition of pork fat as such and shall not contain more than 30% fat. Ground pork shall not contain extenders, binders, variety meats, by-products, added water or ice, artificial flavor or color, vegetable coloring, chemical preservative, boric acid or borates, sulphites, sulfur dioxide, or sulphurous acid. No other parts of the animal or any other substance is permitted in ground pork.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.7125.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.7125.amended Ground lamb, chicken, turkey, and veal; contents.

Sec. 7125. Ground lamb, chicken, turkey, and veal shall not contain any added water or ice, artificial flavoring, by-products or variety meats, binders, extenders, artificial color, vegetable coloring, or chemical preservatives. No other parts of the animal or any other substance shall be permitted except as follows:

(a) Ground lamb shall consist of comminuted fresh lamb meat, with or without added lamb fat, and shall not contain more than 25% fat.

(b) Ground poultry shall consist of comminuted fresh poultry meat, with or without accompanying skin in natural proportions, with or without added poultry fat, and shall not contain more than 20% fat. The name shall be identified by the species contained in the product.

(c) Ground poultry meat shall consist of comminuted fresh poultry meat, with or without added poultry fat, and shall not contain more than 15% fat. The name shall be identified by the species contained in the product.

(d) Ground veal shall consist of comminuted fresh veal meat, with or without added veal fat, and shall not contain more than 20% fat.

(e) Ground pork shall consist of comminuted fresh pork with or without the addition of pork fat as such and shall not contain more than 30% fat. Ground pork shall not contain extenders, binders, variety meats, by-products, added water or ice, artificial flavor or color, vegetable coloring, chemical preservative, boric acid or borates, sulphites, sulfur dioxide, or sulphurous acid. No other parts of the animal or any other substance is permitted in ground pork.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 114, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.7127 Meat pattie; contents.

Sec. 7127. “Meat pattie” is a product prepared in pattie form. “Meat pattie mix” is a product sold in bulk uncooked form. Meat patties and meat pattie mix are a mixture of fresh comminuted meat with or without the addition of fat and seasonings and containing not less than 65% meat. Binders and extenders may be used up to 12% of the finished product. Meat pattie and meat pattie mix shall not contain artificial color or flavor, by-products or variety meats, added water or ice, or more than 30% fat. Meat patties and meat pattie mix with fruits, vegetables, nuts, or mushrooms, either as a coating or ingredient, are permitted if labeled and advertised as “meat patties with _____”, inserting the common or usual name of the addition.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.7129 Food subject to standards; identification; common or usual name.

Sec. 7129. (1) If a food is subject to a standard established under this chapter, it shall be identified by the name required by that standard. If no standard applies, the product shall be identified by its common or usual name. If no common or usual name exists, the product shall be identified by an appropriately descriptive name that is not misleading and that accurately identifies or describes, in as simple and direct terms as possible, the basic nature of the food and its characterizing ingredients or properties. A product manufactured or sold under the provisions of this act, which is sold in closed or sealed packages shall bear a complete label. The label shall bear the true name of the product as defined in this act, an ingredient statement if the product contains more than 1 ingredient, the net weight of the product, and the name and address of the manufacturer.

(2) Products sold from bulk retail displays shall bear a sign or placard containing the true and approved name of the product. If the product contains more than 1 ingredient, an ingredient statement shall be placarded, posted, or otherwise available for the customer in written form.

(3) Meat products using antioxidants shall indicate on the label, or in the absence of a label an adjacent placard, their presence and purpose.

(4) Meat products containing monosodium glutamate, hydrolyzed vegetable protein, or any other source of monosodium glutamate shall indicate on the label or, in the absence of a label, an adjacent placard in its presence.

(5) The meat ingredients in a meat product that specifies 1 type of meat in its name, such as ham loaf, pork loaf, veal patties, or turkey sausage, shall be entirely from the species indicated in the product name. The meat in a meat product that specifies more than 1 type of meat in its name, such as beef and turkey sausage, shall be entirely from the types indicated, and shall contain at least 20% of each meat. A meat product that contains a type of meat consisting of less than 20% of that meat may be labeled as "(product) _____ added" or "product with _____", inserting the common name of that meat. Sausage labeled or advertised as all meat or all beef shall not contain any nonfat dry milk solids or dry whole milk.

(6) All required words and numbers shall be legible to potential customers.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.7131 Federally inspected meats; preemption of state ingredient standards.

Sec. 7131. A person shall not sell or offer for sale a product that is not manufactured to the ingredient standards of this act unless the federal government legally preempts Michigan's ingredient standards. In that case, federally inspected meats not meeting the ingredient requirements of this act shall be identified as federally inspected on intact, sealed packaging from the federally inspected location.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.7133 Artificial casings or containers; products considered as adulterated.

Sec. 7133. (1) All products manufactured under terms of this chapter may be sold in colored artificial casings or container only if they are in complete compliance with all applicable regulations of the United States department of agriculture. These products shall not be sold in colored natural casings.

(2) In addition to the requirements of section 1105(a), any product within the purview of this section shall be considered adulterated if it is the product of an animal which has died otherwise than by slaughter.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

289.7135 Experimental packs of food; temporary permits.

Sec. 7135. (1) Temporary permits granted for interstate shipment of experimental packs of food varying from the requirements of federal definitions and standards of identity are automatically effective in this state under the conditions provided in such permits.

(2) The department may issue additional temporary permits where they are necessary to the completion or conclusiveness of an otherwise adequate investigation and where the interests of consumers are safeguarded.

(3) Such temporary permits are subject to the terms and conditions the department may prescribe by rule.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.7137 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.7137.amended *****

289.7137 Food additives; limitation.

Sec. 7137. Food may not contain unapproved food additives or additives that exceed amounts specified in 21 C.F.R. parts 170 to 180 relating to food additives, generally recognized as safe or prior sanctioned substances that exceed amounts specified in 21 C.F.R. parts 181 to 186, substances that exceed amounts specified in 9 C.F.R. 318.7, or pesticide residues that exceed provisions specified in 40 C.F.R. part 185.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.7137.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.7137.amended Food additives; limitation.

Sec. 7137. Food may not contain unapproved food additives or additives that exceed amounts specified in 21 CFR parts 170 to 180 relating to food additives, generally recognized as safe or prior sanctioned substances that exceed amounts specified in 21 CFR parts 181 to 186, substances that exceed amounts established under applicable regulations of the United States department of agriculture food safety inspection service, or pesticide residues that exceed provisions specified in 40 CFR part 185.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 114, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

CHAPTER VIII LABELING AND ADVERTISING

289.8101 Packaged food; label requirements.

Sec. 8101. Packaged food shall be labeled as specified in 21 C.F.R. part 101, 9 C.F.R. part 317, and subpart N of part 381 of title 9 of the Code of Federal Regulations, and as specified under sections 3-202.17 and 3-202.18 of the food code.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.8103 Bulk displays of unpackaged food and drink; salad bar; sign requirements; placard.

Sec. 8103. (1) All bulk displays of unpackaged food and drink offered for sale at a retail food establishment, including salad bars, which contain a detectable amount of sulfiting agents shall be prominently placarded with a sign which is clearly visible to the customer and which declares either of the following statements:

(a) (NAME OF PRODUCT)

THIS PRODUCT CONTAINS A SULFITING AGENT. SULFITES MAY CAUSE AN ALLERGIC REACTION IN CERTAIN PERSONS, PARTICULARLY ASTHMATICS.

(b) (NAME OF PRODUCT) _____, the blank to be filled in with the name of the sulfiting agent, and if added as a preservative, a separate description of its function.

(2) All letters on the sign shall be of the same type style and color, not less than 1/4 inch in height, and of a color in clear contrast to the background. A smaller type size may be permitted if the department determines space is not available for the placard and the largest type size possible is used. If a retail establishment has multiple bins of sulfite-treated food which are segregated, 1 placard listing all of the applicable products is acceptable if it is placed at approximately eye level over the bins.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.8105 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.8105.amended *****

289.8105 Prohibited acts.

Sec. 8105. (1) A person shall not do any of the following:

(a) Make, publish, disseminate, circulate, or place before the public any advertisement containing any assertion, representation, or statement which is untrue, deceptive, or misleading or falsely represents the kind, classification, grade, or quality of meat.

(b) Use any term of quality without using or having for sale the quality of meat advertised or offered for sale.

(c) Use the term “USDA” unless the official grade is also designated.

(d) Designate or use any brand name of a company unless the meat so advertised or displayed for sale is of a quality which the use or designation of the brand name of such company would reasonably indicate.

(2) A person shall not advertise or display for sale any of the following:

(a) Any meat of the ovine species that is 2 years old or over as “yearling” or “lamb”. Such meat shall be clearly designated “mutton”.

(b) Any meat described by the use of the words “prime”, “choice”, or “good” unless such meat advertised for sale actually bears the “USDA” federal stamp designating such grade or is of equal quality as the federal grade would designate.

(c) Any ham unless the advertisement or display states whether the ham is skinned or regular.

(d) Any ham portion described by the use of the words “one-half” or “half ham” that has had a center slice removed.

(e) Any pork shoulder described as “ham”.

(f) Any meat or meat product which has been branded or marked as imitation by a manufacturer or processor unless the advertisement or display clearly states that such meat or meat product is an imitation.

(3) A person shall not substitute in any sale any inferior or cheaper cut of meat without informing the purchaser that such substitution is being made.

(4) A person shall not keep or display any canned meats or canned meat products at a temperature exceeding 6° centigrade (41 ° Fahrenheit) if the label of such meats or meat products specifies that they shall be kept under refrigeration.

(5) Whenever it becomes necessary for the purposes of this act to procure a sample or samples of meat or meat products, the person in charge of the place where inspection is made must permit the sample or samples to be obtained upon being tendered the advertised or offered price of the item being procured.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design,

construction, and equipment established under this act.”

***** 289.8105.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.8105.amended Prohibited acts.

Sec. 8105. (1) A person shall not do any of the following:

(a) Make, publish, disseminate, circulate, or place before the public any advertisement containing any assertion, representation, or statement which is untrue, deceptive, or misleading or falsely represents the kind, classification, grade, or quality of meat.

(b) Use any term of quality without using or having for sale the quality of meat advertised or offered for sale.

(c) Designate or use any brand name of a company unless the meat so advertised or displayed for sale is of a quality which the use or designation of the brand name of such company would reasonably indicate.

(2) A person shall not advertise or display for sale any of the following:

(a) Any meat of the ovine species that is 2 years old or over as "yearling" or "lamb". Such meat shall be clearly designated "mutton".

(b) Any meat described by the use of words associated with grading terminology unless such meat advertised for sale actually bears the "USDA" federal stamp designating such grade or is of equal quality as the federal grade would designate.

(c) Any ham unless the advertisement or display states whether the ham is whole, bone-in, semi-boneless, or boneless.

(d) Any ham portion described by the use of the words "one-half" or "half ham" that has had a center slice removed.

(e) Any pork shoulder described as "ham".

(f) Any meat or meat product which has been branded or marked as imitation by a manufacturer or processor unless the advertisement or display clearly states that such meat or meat product is an imitation.

(3) A person shall not substitute in any sale any inferior or cheaper cut of meat without informing the purchaser that such substitution is being made.

(4) A person shall not keep or display any canned meats or canned meat products at a temperature exceeding 6° centigrade (41° Fahrenheit) if the label of such meats or meat products specifies that they shall be kept under refrigeration.

(5) Whenever it becomes necessary for the purposes of this act to procure a sample or samples of meat or meat products, the person in charge of the place where evaluation is made must permit the sample or samples to be obtained upon being tendered the advertised or offered price of the item being procured.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 114, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

***** 289.8107 THIS SECTION IS AMENDED EFFECTIVE APRIL 1, 2008: See 289.8107.amended *****

289.8107 Definitions; prepackaged perishable food; date.

Sec. 8107. (1) As used in this section:

(a) “Date” means the recommended last day of sale.

(b) “Perishable food” means any food in package form which the manufacturer, packer, or retailer, in conjunction with the department, determines as having a significant risk of spoilage, loss of value, or loss of palatability within 90 days of the date of packaging.

(c) “Prepackaged” means packaged prior to being displayed or offered for sale.

(2) A retail food establishment shall not sell or offer for sale a prepackaged perishable food unless there is clearly and conspicuously stamped upon or attached to the package a date identified by month and day except that bakery products with a shelf life of 7 days or less may be dated with a day of the week or an abbreviation.

(3) The date may be displayed with or without explanatory terms. If explanatory terms are used, such terms shall be limited to 1 of the following: “Sell by _____”, “Sell before _____”, “Last date of sale _____”, “Recommended last date of sale _____”, or “Recommended sale date _____”. Other meaningful terms may be used if specifically approved by the department.

(4) This section does not prohibit the sale of food after the date if the product is wholesome and sound and is clearly identified as having passed the date.

(5) The retail or final seller is responsible for the proper advertisement of perishable food sold after the date.

(6) A person who prepackages perishable food shall do all of the following:

(a) Establish a meaningful date that takes into consideration the food quality and characteristics of the food, its packaging, and customary conditions encountered in commercial channels.

(b) Allow a reasonable period after the date for consumption of the food without physical spoilage.

(c) Keep a record of the method of determination of the date.

(7) A retailer who purchases prepackaged perishable food may, upon written agreement with the person prepackaging such food, determine, identify, and be responsible for the date placed on, or attached to, each package of such food.

(8) The date shall not be altered. A person shall not rewrap or repackage a perishable food, in its original form and texture, with a date on the package different from the original.

(9) The date shall be calculated to allow a reasonable period for the subsequent consumption of the food, but shall not allow for a period which would result in a health nuisance as described in section 2107.

(10) This section does not apply to fresh fruits and vegetables, canned food, and frozen food, nor to milk and milk products dated in accordance with section 1 of the fluid milk act of 1965, 1965 PA 233, MCL 288.21.

(11) The requirements of this section do not apply to any of the following:

(a) An individually packaged food item that is a component of a larger food item if the larger food item is identified with a date the same as or earlier than the date of that component.

(b) Perishable foods packaged under, and in compliance with, federal laws and regulations, if providing information equal to or greater than the information required by this section.

(c) Smoked fish under the smoked fish rules.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."

***** 289.8107.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2008 *****

289.8107.amended Definitions; prepackaged perishable food; date.

Sec. 8107. (1) As used in this section:

(a) "Date" means the recommended last day of sale.

(b) "Perishable food" means any food in package form which the manufacturer, packer, or retailer, in conjunction with the department, determines as having a significant risk of spoilage, loss of value, or loss of palatability within 90 days of the date of packaging.

(c) "Prepackaged" means packaged prior to being displayed or offered for sale.

(2) A retail food establishment shall not sell or offer for sale a prepackaged perishable food unless there is clearly and conspicuously stamped upon or attached to the package a date identified by month and day except that bakery products with a shelf life of 7 days or less may be dated with a day of the week or an abbreviation.

(3) The date may be displayed with or without explanatory terms. If explanatory terms are used, such terms shall be limited to 1 of the following: "Sell by _____", "Sell before _____", "Last date of sale _____", "Recommended last date of sale _____", or "Recommended sale date _____". Other meaningful terms may be used if specifically approved by the department.

(4) Except for meat that has been removed from federally inspected retail packages, this section does not prohibit the sale of food after the date if the product is wholesome and sound and is clearly identified as having passed the date.

(5) The retail or final seller is responsible for the proper advertisement of perishable food sold after the date.

(6) A person who prepackages perishable food shall do all of the following:

(a) Establish a meaningful date that takes into consideration the food quality and characteristics of the food, its packaging, and customary conditions encountered in commercial channels.

(b) Allow a reasonable period after the date for consumption of the food without physical spoilage.

(c) Keep a record of the method of determination of the date.

(7) A retailer who purchases prepackaged perishable food may, upon written agreement with the person prepackaging such food, determine, identify, and be responsible for the date placed on, or attached to, each package of such food.

(8) The date shall not be altered. A person shall not rewrap or repack a perishable food, in its original form and texture, with a date on the package different from the original.

(9) The date shall be calculated to allow a reasonable period for the subsequent consumption of the food, but shall not allow for a period which would result in a health nuisance as described in section 2107.

(10) This section does not apply to fresh fruits and vegetables, canned food, and frozen food and does not apply to milk and milk products dated in accordance with the grade A milk law of 2001, 2001 PA 266, MCL 288.471 to 288.540.

(11) The requirements of this section do not apply to any of the following:

(a) An individually packaged food item that is a component of a larger food item if the larger food item is identified with a date the same as or earlier than the date of that component.

(b) Perishable foods packaged under, and in compliance with, federal laws and regulations, if providing information equal to or greater than the information required by this section.

(c) Smoked fish under the smoked fish rules.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 114, Eff. Apr. 1, 2008.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.8109 Foods sold or distributed from manufacturing, processing, packing, or repacking activity; identification.

Sec. 8109. All products that are sold or otherwise distributed from a manufacturing, processing, packing, or repacking activity shall be marked with a meaningful, visible, and legible code to enable positive lot identification and to facilitate, where necessary, the segregation of specific lots that may have become contaminated or are otherwise unfit for their intended use. Invisible coding is not considered meaningful coding. The coding format shall be provided to the department upon request. Coding records shall be retained for a period of time that exceeds the shelf life of the product or for 2 years, whichever is shorter.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

“Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

“(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

“(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act.”

289.8111 Vinegar; requirements and restrictions; definitions.

Sec. 8111. (1) A person shall not manufacture for sale, offer or expose for sale, sell or deliver, or have in his or her possession with intent to sell or deliver, any vinegar not in compliance with the provisions of this chapter.

(2) The word “vinegar” as used in this section is limited to a water solution of acetic acid derived by the alcoholic and subsequent acetous fermentation of fruits, grain, vegetables, sugar, or syrups and if not distilled must carry in solution the extractive matter derived solely from the substances indicated on the label as its source.

(3) Vinegar shall not be sold or offered for sale as apple or cider vinegar which is not the legitimate product of pure apple juice. The term “cider vinegar” or “apple cider vinegar” as used in this section means vinegar derived by the alcoholic and subsequent acetous fermentation of the expressed juice of apples, the acidity, solids, and ash of which have been derived exclusively from apples and which contains not less than 4% of absolute acetic acid. Cider vinegar which, during the course of manufacture, has developed in excess of 4% acetic acid may be reduced to a strength of not less than 4%, and cider vinegar so reduced is not regarded

as adulterated.

(4) Every manufacturer or producer of cider vinegar shall plainly label on the head of the cask, barrel, keg, or other container of such vinegar, his or her name, place of business, and the words "cider vinegar" or "apple cider vinegar". A person shall not mark or label as cider vinegar or apple cider vinegar any package containing that which is not cider vinegar. Any vinegar sold or offered for sale shall be marked or labeled plainly upon the package or container from which it is sold and also on the original package or container in which it is sold or delivered, in a manner that shows its true character and source.

(5) Vinegar sold or offered for sale as sugar vinegar shall be strictly and distinctly fermented from sucrose, molasses, refiner's syrup, or nutritive carbohydrate sweetener.

(6) Vinegar sold or offered for sale as malt vinegar shall be strictly and distinctly fermented from malted barley, cereals, or a concentrate of malted barley or cereals, which has been enzymatically converted by the malting process.

(7) Vinegar shall not be sold or offered for sale in which foreign substances, other than substances permitted under this act, drugs, or acids have been introduced. Vinegar shall not contain any artificial color except as permitted under this act. Vinegar shall contain not less than 4 grams of acetic acid per 100 cubic centimeters at 20° centigrade. If vinegar contains any artificial substance, except as permitted under this act, or contains less than the required amount of acidity, it shall be considered to be adulterated.

(8) Vinegar made by fermentation and oxidation of the juice of grapes or the acetous fermentation of wine, without the intervention of distillation, shall be labeled with the name of the fruit or substance from which the vinegar has been made.

(9) Vinegar made by acetous fermentation of dilute distilled ethyl alcohol shall be labeled "distilled vinegar", "white distilled vinegar", "distilled white vinegar", or "white vinegar". Vinegar, except flavored vinegar and blended vinegar, made in part from distilled vinegar shall be conspicuously labeled "distilled vinegar" and shall have the component vinegars declared in the ingredient statement.

(10) Flavored vinegar shall be labeled "_____ flavored vinegar". The space shall be filled in with the name of the characteristic flavor. All of the words in the name shall appear on a background of contrasting color. The flavor name shall be in letters at least 1/2 the size of the letters in the word "vinegar". The word "flavored" shall be in letters at least 1/2 the size of the letters in the flavor name.

(11) Blended vinegar shall be labeled "blended vinegar" or "_____ vinegar", the blank to be filled in with a name which accurately describes the nature or function of the vinegar. All of the words in the name shall be in letters on a background of contrasting color.

(12) As used in this section:

(a) "Blended vinegar" means the acetous fermentation of a blend of raw materials or a blend of 2 or more of the vinegars defined in this chapter but not including apple cider vinegar.

(b) "Flavored vinegar" means vinegar to which garlic, shallots, chili, tarragon, herbs, or spices, or the extract of any of those substances, is added to impart a characteristic flavor.

History: 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."